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Letter from the Secretary of the Interior,
transmitting, in answer to a resolution of the 6th
June, 1890, a report of the Commissioner of Indian
Affairs respecting intruders into the Choctaw and
Chickasaw Nations

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LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING,

In answer to a resolution of the 6th June, 1890, a report of the Commissioner of Indian Affairs respecting intruders into the Choctaw and Chickasaw nations.

AUGUST 18, 1890.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, August 16, 1890.

SIR: I have the honor to acknowledge the receipt of the following Senate resolution of June 6, 1890, viz:

Resolved, That the Secretary of the Interior be directed to communicate to the Senate copies of all correspondence, since December 1, 1884, between the Department and officials, or others in the Indian Territory, respecting intruders into the Choctaw and Chickasaw nations, described in the seventh article of the treaty with said nations, of date June 22, 1855; and what steps, if any, have been taken to fulfill the obligations of the United States in respect to such intruders, and what legislation, if any, is necessary to enable the United States to fulfill its treaty obligations in respect to such intruders.

In response thereto I transmit herewith copy of a report of 14th instant from the Commissioner of Indian Affairs, and accompanying copies of papers therein referred to.

Very respectfully,

JOHN W. NOBLE,
Secretary.

THE PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, August 14, 1890.

SIR: Referring to my report of July 26, 1890, requesting the return of office report of July 12, 1890, and accompanying papers, transmitted in response to Senate resolution of June 6, last, in regard to intrusions in the Choctaw and Chickasaw nations, and to your letter of July 23, 1890, returning the same, I have the honor to transmit herewith, a copy from the records and files of this office, comprising, as appears from a careful search, all the correspondence since December 1, 1884, "between this Department and officials, or others in the Indian Territory, respecting intruders in the Choctaw and Chickasaw nations," contained therein.

This correspondence consists of reports from this office to the Department, letters and telegrams from this office to the United States Indian Agent for the Union Agency, and others, and letters to this office from the Department, the Indian agent, and other parties, and is as follows:

(1) A copy of reports made to the Department on this subject upon the following dates, viz: July 19, 1885; April 26, 1886; May 17, 1886; June 4, 1886; October 4, 1887; December 15, 1888; August 5, 1889; August 15, 1889; August 16, 1889; October 11, 1889; November 8, 1889; January 28, 1890; February 25, 1890; February 26, 1890; March 13, 1890; April 3, 1890, and May 16, 1890.

(2) Copy of letters from this office to other parties on this subject, dated as follows, viz: December 13, 1884, two letters; February 10, 1885; February 27, 1885; March 6, 1885; April 13, 1885; April 29, two letters; May 7, 1885; June 18, 1885; July 3, 1885; July 10, 1885, two letters; July 20, 1885; September 2, 1885; September 10, 1885; September 17, 1885; September 25, 1885; October 5, 1885, two letters; October 31, 1885; January 11, 1886; January 23, 1886; March 15, 1886; April 14, 1886; April 19, 1886; April 26, 1886; June 2, 1886; June 26, 1886; September 15, 1886; September 25, 1886; October 25, 1886; December 1, 1886; December 12, 1886; January 15, 1887; January 28, 1887; February 12, 1887; March 1, 1887; March 2, 1887; April 4, 1887; June 13, 1887; May 17, 1888, two letters; July 7, 1888; July 25, 1888; July 26, 1888; November 21, 1888; January 10, 1889; September 24, 1889; October 4, 1889; October 14, 1889; November 30, 1889, two letters; February 11, 1890; February 20, 1890; February 24, 1890; March 3, 1890; April 10, 1890, and May 27, 1890.

(3) Copy of telegrams from this office on the subject, dated as follows, viz: April 16, 1886; July 24, 1888; August 3, 1889; February 20, 1890, and March 13, 1890.

(4) Copy of letters received in this office on the subject, and bearing numbers in the files as follows, viz:

23436, 1884	10323, 1886	19103, 1888	37420, 1889
2177, 1885	11004, 1886	19227, 1888	601, 1890
4046, 1885	13090, 1886	19401, 1888	2890, 1890
5567, 1885	19037, 1886	19402, 1888	4378, 1890
7920, 1885	20565, 1886	19403, 1888	4999, 1890
8454, 1885	23339, 1886	20586, 1888	5166, 1890
9736, 1885	25020, 1886	20918, 1888	5260, 1890
12995, 1885	25181, 1886	26922, 1888	5264, 1890
13986, 1885	30786, 1886	30210, 1888	5334, 1890
15500, 1885	33027, 1886	263, 1889	7304, 1890
15677, 1885	778, 1887	7408, 1889	7528, 1890
17065, 1885	2245, 1887	22252, 1889	8287, 1890
18434, 1885	2638, 1887	24854, 1889	9120, 1890
18838, 1885	4647, 1887	26559, 1889	9754, 1890
18942, 1885	5095, 1887	26627, 1889	12861, 1890
20165, 1885	5097, 1887	27935, 1889	13908, 1890
20562, 1885	6417, 1887	27938, 1889	16238, 1890
20564, 1885	12820, 1887	29100, 1889	16241, 1890
135, 1886	23658, 1887	30191, 1889	16370, 1890
1937, 1886	12440, 1888	31073, 1889	16374, 1890
6397, 1886	17401, 1888	32607, 1889	20025, 1890
9242, 1886	18588, 1888	35268, 1889	9527, authority
10242, 1886	18730, 1888	36732, 1889	19121, authority

In addition to the papers herewith inclosed others were transmitted with my report of July 17, 1890, relative to the question of intrusions in the Chickasaw Nation, which should be sent to the Senate in compliance with its resolution.

The correspondence on this subject will show in compliance with that part of the Senate resolution which asks for information as to "what steps, if any, have been taken to fulfill the obligations of the United States in respect to such intruders," that the Department has at different times directed the United States Indian agent to effect their removal; that the agent has been ready to execute those directions, but has been deterred by the low state of the appropriations for contingencies of the Indian Department available for that purpose at the time when the removals can be effected with least hardship on the intruders, by the failure to secure the assistance of a sufficient detachment of troops at the proper time to insure their quiet removal without loss of life, and by the interference of the United States courts having jurisdiction in that country.

Inasmuch as the appropriation for the contingencies of the Indian Department is larger for the current year than for previous years, and an amicable understanding with the United States court for the eastern district of Texas, by which the jurisdiction of the Indian agency over the question of intruders in the Choctaw and Chickasaw Nations will be recognized and sustained, has been reached, there appears to be no necessity at this time for further legislation to enable the Department to fulfill the treaty obligations of the United States in respect to these intruders, and I recommend none.

The Senate resolution, with the papers transmitted from the files of the Department to be copied, is herewith returned.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, July 17, 1890.

SIR: Referring to office report of February 25, 1890, and to other correspondence relative to the question of intrusions by white men on the lands of the Chickasaw Nation of Indians in the Indian Territory and to the removal of the said intruders, I have the honor to acknowledge the receipt by reference from the President through the Department of a memorial by the governor and legislature of the said Chickasaw Nation, earnestly praying for some action on the part of the Government to remove all persons occupying their public lands without authority of law.

Authority for the removal of these parties was granted by the Department in its letter of December 27, 1888, to this office, and the War Department was requested to furnish a sufficient force of troops to assist the agent in carrying this authority into effect.

Agent Bennett applied to the commanding officer of Fort Sill about November, 1889, for military aid in removing intruders, but that officer replied that he had no orders that would enable him to honor the agent's requisition for troops.

Mr. Bennett has held himself in readiness to remove all persons unlawfully residing in the Chickasaw country, but for the want of troops and on account of the action of some of the United States court officials of the district courts for the Eastern district of Texas, he has been unable to effect the purpose for which the said authority was granted by the Department.

In my report referred to above I had the honor to recommend that the matter of the interference by the courts with the discharge of his duty by the agent be laid before the Department of Justice for consideration in connection with a matter previously reported on, viz, the arrest of a captain of Indian police of the Union Agency, and that the Secretary of War be requested to cause to be furnished the necessary troops to enable the agent to effect the removals desired.

By a letter of June 16, 1890, the Attorney-General transmitted, for the information of the Department, copy of a letter of even date to Hon. David E. Bryant, United States judge, calling his attention to the matter of the interference by the officers of the court with the administration of the affairs of the Union Indian Agency, and requesting him to take steps to prevent such interference in the future, and it is presumed that Agent Bennett will not be liable to further interruption in the removal of these intruders from the courts.

The only impediment now known to this office in the way of the full execution of the authority of the Department for the removal of intruders from the Chickasaw Nation is the want of a sufficient force of military to effect the removals, there being a very large number of intruders in the nation of more or less desperate character. The Secretary of War appears not to have caused the promulgation of the necessary orders to provide for the assistance of troops.

I am of the opinion that the Government should relieve the Chickasaw Indians of the trespasses complained of, and remove the intruders in that nation in accordance with the treaties with those Indians, and I have the honor to recommend that the Secretary of War be again requested to cause a sufficient force of troops to be furnished to assist the agent to effect the removals desired, so that they may be accomplished this fall before new crops are put in, and at a time when the least hardship is likely to result therefrom.

I have, by a letter of even date herewith, directed Agent Bennett, of the Union Indian Agency, to issue a proclamation directing all persons in the Chickasaw Nation contrary to, or without authority of, law to remove with their effects from said nation and the Indian Territory by or before the 1st day of November next.

I inclose herewith two copies each of the said memorial of the Chickasaw governor and legislature, of a letter of June 21, 1890, from Hon. William L. Byrd on the subject, and of office letter of even date herewith to Agent Bennett, above referred to, together with two copies of this report, one of each of which copies I recommend be forwarded to the Senate for consideration in connection with my report of July 12, 1890, in response to the resolution calling for copy of the correspondence touching the question of intruders in the Choctaw and Chickasaw Nations since December 1, 1884.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 17, 1890.

SIR: Referring to your letter of May 2, 1890, in which you say that you have not been advised that soldiers will be placed at your disposal in effecting the removal of intruders from the Chickasaw Nation, and that you hold yourself in readiness to execute any orders from this office in the matter, I have to advise you that I have, by a report of even date herewith, requested the Secretary of the Interior to again call on the War Department for troops to be used in the removal of these intruders.

I desire that you will immediately issue a proclamation warning all persons who reside in the Chickasaw Nation, contrary to law or without authority of law, that they must remove with their movable property from within the Chickasaw Nation and the Indian Territory by or before the 1st day of November, 1890, and that any crop or crops that may be planted by them in the said Chickasaw Nation will be so planted at their own risk.

You will report your action hereunder.

Very respectfully,

T. J. MORGAN,
Commissioner.

LEO E. BENNETT, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

EXECUTIVE DEPARTMENT, CHICKASAW NATION,
Tishamingo City, Ind. T., June 21, 1890.

DEAR SIR: I respectfully inform you that I have ordered out the Chickasaw militia for the purpose of enforcing law in the Chickasaw Nation upon citizens of the Chickasaw Nation only, and not upon those who are United States citizens; at the same time the Chickasaws would feel grateful to the United States Government if the intruders were removed beyond the limits of our nation.

My reason for giving this information is that newspaper men and others are wont to misrepresent us.

Very respectfully,

WM. L. BYRD,
Governor of the Chickasaw Nation.

HON. COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

UNITED STATES INDIAN SERVICE, UNION AGENCY,
Muscogee, Ind. T., May 2, 1890.

SIR: Referring to agency letter dated February 17, I have the honor to report that I have not been advised that soldiers have been placed at my disposal in effecting the removal of intruders from the Chickasaw Nation.

I hold myself in readiness to execute any orders from the Department in this matter.

Your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

To the President of the United States of America.

HIS EXCELLENCY:

The senate and house of representatives of the Chickasaw legislature assembled most humbly memorialize thee, and sheweth, that for a long time the Chickasaw Nation (the home of the Chickasaws, and by them held most dear) has been *overrun* by *white people*, citizens of the United States, and from time to time such people have violated the laws of said Chickasaw Nation, and in all respects fails and refuses to obey the same, and this class of intrusion is becoming *greater* daily until it does seem that if some speedy and prompt relief in this particular is not afforded the Chickasaws their nation will soon become the home of the white people, and not the home of the Chickasaw Indian. Notwithstanding the Chickasaws have applied every civil method to rid the country of this unlawful intrusion by such white people in the Chickasaw Nation, the Chickasaws have appealed from time to time to the United States Indian agent, and the honorable, the Secretary of the Interior Department of the United States, and so far we are pained to say the relief prayed for has not been furnished. We fully recognize (and with pleasure) that we are wards of the United States Government, and under its care and guaranteed protection, as stated in the 4th article of the treaty of 1866 by and between the Choctaws and Chickasaws and the United States. We understand that the Constitution of the United States recognizes all *treaties made by the United States as the supreme law of the land, any law to the*

contrary notwithstanding. Hence we must acknowledge that we have only treaty stipulations, and the strong will of the United States for right and justice to the Indian to rely on, and having been faithful to the United States in what we have promised to do, it is natural in return we expect the same, and having used every effort on our part to attract the generous attention of the United States to look upon the manner in which the weak Chickasaw people have been and are being intruded upon by such people who are among us, against our laws, and our expressed wishes—utilizing our *country, land, and range*, and, at the same time, trampling alike upon our *laws*, and, our *rights* to our great *injustice*, enriching themselves from our commonwealth, and our appeals having so far passed seemingly unnoticed by the United States Government officials, to whom our grievances have been made known, and our requests and demands to remove these people, who are much annoyance and trouble to us, have simply amounted to nothing, so far, until at length the Chickasaws feel themselves in great distress of the fear of being overrun, and their country soon to pass from their hands, and leave them where there is no more a country like this to be found in the West for the poor Indian to emigrate to, as in olden times. We are wholly unable to estimate the number of intruders now in our country, but, to say the least, they are very numerous, and still they come, and, not knowing of any other appeal to make, we feel ourselves justifiable in applying to the *head of the great and powerful Government*, from which we expect to *find and get* the relief so plainly promised by the *grand United States Government* in the year of 1866. Therefore, we, the senate and house of representatives of the Chickasaw legislature, prays that *your excellency cause some steps and action* to be taken to remove from the Chickasaw Nation *all persons* who are unlawfully within the same, for which the Chickasaw people *will ever* in duty pray.

Passed the Senate July 1, 1890.

Attest :

JONAS WOLFE,
President of the Senate.

Passed the House of Representatives July 2d, 1890.

WM. M. KEMP,
Secretary Senate.

Attest :

F. S. WAITE,
Speaker.

Approved July 2d, 1890.

J. L. KEEL,
Clerk.

WM. L. BYRD,
Governor.

I, M. V. Cheader, national secretary of the Chickasaw Nation, do hereby certify that the above and foregoing is a true and correct copy of the original memorial now of record in my office. Given under my hand and the great seal of the Chickasaw Nation affixed at Tishomingo City, the capital of said Chickasaw Nation, this the 2d day of July, A. D. 1890.

M. V. CHEADER,
National Secretary of the Chickasaw Nation.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, December 18, 1896.

SIR: The attention of this office has recently been called by Rev. W. F. ReQua, Baptist missionary at McAlister, Choctaw Nation, to the demoralizing effect of the licensed gambling prevailing in that settlement. He states that the Indians want it stopped, but are afraid to utter the sentiment publicly for the fear of incurring the ill-will of those keeping the gambling establishments and who are not citizens of the nation.

You are directed to make a quiet investigation of this matter and report all the facts you can obtain relative thereto, with such suggestions and recommendations as you may deem proper, to the end that measures may be taken to break up the pernicious practice.

Are these gambling-houses licensed by the Choctaw Nation?

Very respectfully,

J. D. C. ATKINS,
Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., January 7, 1887.

Hon. J. D. C. ATKINS,
Commissioner of Indian Affairs, Washington, D. C.:

I have the honor to transmit herewith a true copy of permit issued to one J. W. Childers to remain in the Choctaw Nation, Ind. T., to pursue the avocation of a gambler at McAlister.

I have this day written the governor of said nation that such permits will not be recognized as valid, and I have ordered all gambling-houses operating under such permits to be closed, and the owners thereof to cease such "pernicious practice."

I would respectfully ask the approval of my action in regard thereto by the Office of Indian Affairs.

Very respectfully, your obedient servant,

ROBT. L. OWEN,
United States Indian Agent.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 15, 1887.

SIR: Referring to your letter of the 7th instant, transmitting a copy of a permit issued by the governor of the Choctaw Nation to one J. W. Childers to remain in the nation and pursue the avocation of a gambler, and stating that you had written the governor of said nation that such permits would not be recognized as valid, and directing all gambling-houses operating thereunder to be closed, I have to say that your action is approved by this office.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

COESFIELD, COOKE COUNTY, TEX., January 17, 1887.

DEAR SIR: I claim to be a citizen of the United States. I was married to a Choctaw, but, owing to the fact that I was married under the Chickasaw law, both the Chickasaws and Choctaws deny me the right of full citizenship.

Now I desire to know if they have any jurisdiction over me whatever; and, if so, what?

Have I not a right in any and all cases to appeal to the United States courts?

I also wish to know if the Indians can legally prevent me from employing United States citizens to work at my legitimate business in the Territory?

Very respectfully,

J. H. RECTOR.

Hon. L. Q. C. LAMAR,
Secretary of the Interior, Washington.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 28, 1887.

SIR: I am in receipt, by Department reference, of your communication dated January 17, 1887, in which you state that you claim to be a citizen of the United States; that you were married to a Choctaw, but that, owing to the fact that you were [not?] married under the Chickasaw law, both the Chickasaws and Choctaws deny you the rights of full citizenship.

You ask if they have any jurisdiction over you; and, if so, what; if you have not a right in all cases to appeal to the United States courts, and if the Indians can legally prevent you from employing United States citizens to work at any legitimate business in the Territory?

In reply I have to state that, unless you are fully recognized as a Chickasaw or Choctaw citizen, the courts of those nations have no jurisdiction over you, and your right to appeal to the United States courts is, of course, unimpaired.

On the other hand, you would have no right to employ United States citizens in the Territory unless the Choctaws or Chickasaws should grant permits for such citizens.

If finally adjudged not to be a citizen of either of these nations, you have no right to reside in the Indian Territory.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

J. R. RECTOR, Esq.,
Coefield, Tex.

MILL CREEK, CHICKASAW NATION, IND. T., *January 19, 1887.*

DEAR SIR: I have a matter concerning myself I desire to lay before you and ask your consideration and judgment.

In January, 1886, I was legally married to the widow, Mrs. Mary F. Fletcher, who had formerly been married to an Indian of this Territory, in 1868. She is a white by birth, and became an Indian by marriage and adoption. The Indian authorities here claim that she has no power to extend any rights of a citizen to me. The Indians are demanding that I shall pay a permit or leave the Territory and be separated from my family, or take them with me and rob them of their rights and privileges in the Territory. I say to you, I profess to be a law-abiding man, and only ask for justice in the matter. If I have any rights of a citizen in this Territory, I desire to know it, and want your decision in the matter.

Hoping to hear from you soon, I remain,
Yours, etc.,

JAMES JOHNSON,
Mill Creek, Ind. T.

Hon. SECRETARY LAMAR,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 12, 1887.

SIR: I am in receipt, by Department reference, of your communication dated January 19, 1887, in which you state that in January, 1886, you were legally married to a white woman, the widow of a Chickasaw Indian, and that the Indian authorities are demanding that you shall pay a permit or leave the Territory.

In reply I have to state that under the Chickasaw intermarriage laws your wife, as the widow of a Chickasaw, could not confer any right or privilege whatever in that nation by marrying a citizen of the United States, nor could you by any such marriage acquire any such right or privilege.

By such marriage you stand in precisely the same position as if you had married any other citizen of the United States, and must comply with the permit law or be deemed an intruder.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

JAMES JOHNSON, Esq.,
Mill Creek, Ind. T.

FEBRUARY 8, 1887.

Mr. SECRETARY,

SIR: I want some advice. I will state the condition of several hundred families with myself included that now live in the Chickasaw Nation that it here under permit for the purpose of farming and improving the country, and some of us has 10 some 20 and some 50 some 75 head of stalk, and the Indians has past laws limiten a non-citizen to 5 cows and calves and jest what work stalk they think is necessary to work the land that we are cultivating, and thir law provides that the officers appointed shall seize upon the over plush of stalk and make us pay one dollar per head for all horses, cattell, hoges, sheap, gotes that is not exempt, under the permit law and if we dont redeem said stalk they advertise 15 days then sell said stalk are enough to pay the dollar on the head to the hiest bidder for cash in hand., then if sade stalk is not taken out of the Nation in 30 days they round up the stalk again and colect an other dollar, and so on evry month till we sell them our stalk or take them out. If our stalk is seized under sutch law it will just rob us. We cant possably get the money to redeem with. The most of us is from the starved out district in Texas. Now we want to know if they have any legel rite to seize our stalk and take it from us in that way. If it is in your power we pray you to have mercy on us and protect us from sutch robry. Sheap and Gotes would not bring a nuff to redeem themselves.

I now submit the case to you hoping you will give us your advice amediately.

Yours truly,

J. H. PUTHUFF.
Duncan, Chickasaw Nation, I. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 1, 1887.

SIR: I am in receipt by Department reference of your communication dated February 8, 1887, complaining of the Chickasaw stock law, which provides that non-citizens residing in the nation, under permit, shall not keep more than five cows and stock enough to work their places, and ask if the Chickasaw authorities have the legal right to seize the stock to compel the payment of \$1 per head per month on all stock in excess of the number allowed by law.

In reply I have to state that any non-citizen residing under permit in the Chickasaw Nation must comply in all respects with the laws of that nation regulating the granting of such permits and the amount of stock that may be kept by such non-citizens.

The granting of permits is a matter within the control of the Chickasaw Nation, and I see no reason why the stock law of said nation is not legal.

If citizens of the United States are not satisfied with the privileges granted under these laws they can refuse employment in the nation.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

J. H. PUTHUFF, Esq.,
Duncan, Ind. T.

LONE GROVE, PICKENS COUNTY, CHICKASAW NATION, IND. T.
February 1, 1887.

DEAR SIR: Please excuse the liberty of trespassing on your valuable time. I do so for the purpose of respectfully soliciting your opinion in regard to a matter in which I am most vitally interested and in regard to which I regard you as the highest authority, viz: I am or was a citizen of the United States up to the year of 1883. In that year was duly married according to the laws of the nation to a gentleman of Chickasaw blood. This as I understand endows me with all the rights of an Indian. My husband died and I have again married a gentleman who is or was a citizen of the United States, and I have conformed to all the requirements of the nation. Now, sir, what I wish to know is, what rights, if any, does this second marriage confer upon my present husband. Can he claim under the treaty of the United States the same rights as if he had married a woman of Indian extraction? If, sir, you will answer this at an early date, you will greatly oblige, yours, most respectfully,

LIZZIE JENNINGS.

Hon. L. Q. C. LAMAR,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 1, 1887.

MADAM: I am in receipt, by Department reference, of your communication dated February 4, 1887, in which you state that you married a Chickasaw citizen, and after his death married a citizen of the United States, and ask if your second husband is entitled to the same rights in the Chickasaw Nation as if he had married a Chickasaw woman.

In reply I have to state that under the Chickasaw intermarriage laws, you, being a Chickasaw citizen only by virtue of your marriage with your first husband, could not confer any right or privilege whatever in that nation by marrying a citizen of the United States, nor could he by any such marriage acquire any such right or privilege.

Your second husband is therefore in precisely the same position, as regards rights in the Chickasaw Nation, as if he had married any other citizen of the United States who had no claim to Chickasaw citizenship.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

Mrs. LIZZIE JENNINGS,
Lone Grove, Ind. T.

DUNCAN, IND. T., *January 30, 1887.*

SIR: I see your opinion in regard to Choctaws and Chickasaws in the Independent; also, you speak of white persons being adopted. I have a sister married, a citizen by marriage; her husband married a Chickasaw in Tennessee thirty-one years ago; his Indian wife died; so in 1866 him and my sister was married according to the Chickasaw laws. She still lives in the Territory. What is her rights and her childrens by him. Her husband is dead. Our honorable Ex-Governor Harris recognized her and her two children as citizens, but Governor Overton did not pay them annuity money. Now, if it pleases your honor, will you give me your opinion in regard to their rights.

Yours, respectfully,

S. THORNHILL,

Duncan P. O., Pickens Co., Ind. T.

Hon. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 2, 1887.

SIR: I am in receipt, by Department reference, of your communication dated January 30, 1887, in which you state that your sister (presumably a white woman) married a white man, a citizen of the Chickasaw Nation, his first wife having been an Indian, and ask what rights they have in the Chickasaw Nation.

In reply I have to state that under the Chickasaw intermarriage laws a citizen of that nation by marriage can not confer any rights or privileges in the nation by subsequently marrying another citizen of the United States, or upon such other citizen of the United States or their issue.

If your sister was not a citizen of the Chickasaw nation she therefore acquired no rights in that nation by her marriage to a man who was not a citizen by blood.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

S. THORNHILL, Esq.,
Duncan, Ind. T.

TISHOMINGO, IND. T., *March 5, 1887.*

SIR: I have a very importain question or questions to ask you and I want a correct answer to all of them as soon as you can and I will await for you to settle the questions I have ben reported to Agent Owen and I went to see him and I am not satisfied with his answer and he said for me to put the questions before you and get your decision on the questions the questions are these—first questions My wife was a United States citizen and married a Chickasaw Indian Married in accordings to all of the laws of this country and all former treaties and the laws give to her all of the rights that a native Born has in this Country My Wife was the wife of B. F. Byrd and after his death I and said Mrs. B. F. Byrd married. The laws of this country is when a U. S. citizen marries a Indian he has to pay fifty dollars for marriag Licens and have a record made of the same and that intitled he or she to all the privileges of the Country, &c. So when I and Mrs. B. F. Boyd married, the Chickasaw Executive party demand fifty dollars for licens and I paid the fee and obtained the licens to marrie Mrs. B. F. Boyd. The license was obtain from M. C. Corden County and Probate Judge of Tishomingo County and said Judge Conden married I and Mrs. B. F. Boyd and give to me a marriage certificate and I had my licens and certificate a record made in the same County which I obtained, then I complied with all the laws of this country and the Governor of this Country wants me to procure a permit to live with my wife who has as good a right as the Governor or any Chickasaw. I claim that I have a right to live with my wife without paying a permit to live with her who has as good a right as any Indian in this country. They have no law in this country to prohibit a citizen of this country of conferring citizenship upon another U. S. citizen. I have friends who are Chickasaws by birth that say I and all of my children by said wife are entitled to all of the privileges of this country that any Indian has.

Robert H. Love, one of the Chickasaw Commissioners to Washington, D. C., in the year of 1866, said Love, who helpt to make the treaty of 1866, he said or says that I am entitle to all the priveleges of this Country as a native born of this country is entitle to. Govner Guy says if I dont procure a permit he will remove me from this Country. I have complied with all the laws of this country and all laws govern intermarriage in this mountry and I want to see the law that will separate man and wife

when they mutulia agree to live together and this country is my wifes home and I claim that as I have complied with all of the laws of this country that I dont haft to pay a permit to live with my wife.. So I think I have about stated all so I will wait to hear from you, I remain,

Yours respectfully,

Dr. W. W. POYNER.

Tishomingo, I. T.

Mr. LAMAR,

Secretary of the Interior.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,

Washington, April 4, 1887.

SIR: I am in receipt, by Department reference, of your communication dated March 5, 1887, in regard to your status in the Chickasaw Nation.

It appears that you, a citizen of the United States, married according to the Chickasaw marriage laws, a white woman, who was the widow of a Chickasaw citizen, and by such marriage claim that you are a citizen of that nation as well as your wife.

In reply I have to state that, under the third section of the Chickasaw intermarriage law, "no marriage heretofore solemnized, or which may hereafter be solemnized, between a citizen of the United States and a member of the Chickasaw Nation shall enable such citizen of the United States to confer any right or privilege whatever in this nation by again marrying another citizen of the United States, or upon such other citizen of the United States or their issue."

While, therefore, your wife and any children she may have had by her Chickasaw husband are citizens of the nation, neither you nor any children you may have by her are citizens of that nation.

You are possessed of no rights in said nation, and are subject to the permit law the same as any other citizen of the United States.

Very respectfully,

A. B. UPSHAW,

Acting Commissioner.

Dr. W. W. POYNER,

Tishomingo, Ind. T.

ARNOLDVILLE, IND. T., *April 5, 1887.*

DEAR SIR: As I am a native of your old State, Mississippi, and have a little boy of your name, I will write you a few lines in regard to the Indian Territory, as I desire to settle in this part of the Territory, it being the Chickasaw Nation, provided it becomes a State and is ruled and governed by the laws of the United States. Please send me a statement of the facts whether a part or all of the Territory will be subject to white settlers, and how will it be arranged.

Yours, very respectfully,

Z. C. POE.

L. Q. C. LAMAR,

Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,

Washington, June 13, 1887.

SIR: I have the honor to acknowledge the receipt, by Department reference for report, of a communication from W. T. Ross, dated April 2, 1887, in which he states that he has been awaiting your decision in regard to his right to citizenship in the Choctaw Nation, which he claims because his uncle, J. N. Moore, was admitted to citizenship upon proof.

He desires you to examine the testimony and communicate with him.

Under date of July 5, 1884, Mr. Ross addressed a letter to this office, representing that the Choctaws had refused him certain rights to which he was entitled by virtue of his Choctaw blood.

This letter was referred to late Agent Tufts August 20, 1884, for investigation and report.

September 9, 1884, Agent Tufts replied to the effect that Mr. Ross's statement, so far as it went, was true, but that it would be best for him to present his claim to citizen-

ship to the next Choctaw Council, and that he had notified Mr. Ross to so present his claim.

I have no further information concerning the matter.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

CADDO, CHOCTAW NATION, IND. T., May 14, 1887.

DEAR SIR: Please advise me what way to proceed in the following case. My wife Nancy Q. Stuart is of Indian blood of the Choctaw tribe of Indians. She was born was raised in Miss. and her parents died when she was very young. When the Indians left that country they left her there. She is now in her 51st year. She has relations here who are Indians and we moved her not thinking we would have any trouble in regard to citizenship, but the Choctaws require her to prove her Indian blood. She went to Miss. and had depositions taken from partys that are 75 and 80 years old that new. Her mother and grandmother were born and raised in Miss. and her great grandmother and witness are of Indian blood. Testifying that my wife is of Indian blood of the Choctaw tribe of Indians. In 83 we present those depositions to Council of Choctaw Nation. They would pay no attention to it. They required 2 witness Choctaw citizen residents of the Choctaw Nation. We then went to Council in 85 presented them again they would take no cognizance, their place was the Choctaw Nation had ask no interrogatorys. We have now employed an attorney. He drew up our petition for citizenship and filed the same in the Nation at Secretary's Office of the Choctaw Nation for the Octo. Session of the Council. There is some witness living in the State of Miss. that are getting very old and people that we want to have their evidence taken ready for the October Council and writen to the Indian Agent at Muscogee for advise. He said the Choctaws had made no arrangement about taken depositions out of the Nation and gave me no further instructions. Now please inform me how to procede in taken those Depositions in the State of Miss. that it may be legally done. We are willing for them to investigate the witness but they will take no notice of my depositions for citizenship. My self and wife are getting old and our means is limited, all we ask is an investigation. Please assist us in getting that for the Indians will do nothing unless the Department compels them to do it. In so doing you will confer a lasting favor on those who only ask justice.

Yours truly,

NANCY J. STUART.
and John Stuart my husband.

The SECRETARY OF THE INTERIOR,
Address John Stuart, Caddo Station, Indian Territory.

JOHNSON P. O., August 25, 1886.

SIR: As much diversity of opinion exists as to a correct construction of the status of the white man who becomes a citizen by marriage with a Choctaw or Chickasaw, please answer these points:

(1) Does a white man, citizen, forfeit his rights of citizenship by, subsequently to the death of his Indian wife, marry a white woman?

This question is one of vital importance to many white men, citizens by marriage and afterwards marrying white women and making valuable improvements. Your answer to this inquiry will confer a lasting favor on the present as well as the rising generation.

Very respectfully,

J. W. JOHNSTON.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, September 15, 1886.

SIR: I am in receipt, by Department reference, of your communication dated August 25, 1886, in which you ask if in the Choctaw and Chickasaw Nation a white man, a citizen by marriage, forfeits his citizenship by a marriage with a non-citizen after the death of his Indian wife.

In reply I have to state that I do not know of any Choctaw or Chickasaw laws by which the citizenship of the remarrying adopted citizen in such cases would be forfeited.

The third section of the Chickasaw marriage law, approved October 19, 1876, provides "that no marriage heretofore solemnized, or which may hereafter be solemnized, between a citizen of the United States and a member of the Chickasaw Nation shall enable such citizen of the United States to confer any right or privilege whatever in this nation by again marrying another citizen of the United States, or upon such other citizen of the United States or their issue."

The children of a citizen by marriage and a subsequent wife not a citizen, therefore, are not citizens of the Chickasaw Nation and are not entitled to any of the privileges therein, and such wife is also a non-citizen and not entitled to any privilege in the nation.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

J. W. JOHNSTON, Esq.,
Johnson, Ind. T.

FORT SMITH, ARK., *September 16, 1886.*

SIR: Some eight or nine years ago my father, William P. Hughes, made application for citizenship in the Choctaw Nation. He came here to Fort Smith and had a number of parties make affidavits to facts showing his citizenship. My father then sent all his papers, including these affidavits, to the United States Indian agent at Union Agency, who was to forward them to Washington, and I am informed did so. Father was claiming citizenship through my mother, Martha J. Hughes, and the application may be in her name.

I am now making application for citizenship before the Choctaw council; I very much desire these affidavits my father sent up, or certified copies of them, for the reason that John Willis and Jennie Willis, the parties making them, are dead, and I have no means of getting testimony to supply their place. Will you please forward them, or certified copies, to me at Fort Smith, Ark., and oblige,

Very respectfully,

TYNER HUGHES.

COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, September 25, 1886.

SIR: I am in receipt of your communication dated September 16, 1886, in which you request to be furnished with certain evidence filed with the application of William P. Hughes for citizenship in the Choctaw Nation some eight or nine years ago, or certified copies of the same.

In reply I have to state that, if you will furnish this office with the exact date when the papers were sent here, search will be made for them, and if found they will be forwarded to you, or certified copies sent.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

TYNER HUGHES, Esq.,
Fort Smith, Ark.

BOGGY DEPOT, IND. T., *July 3, 1886.*

DEAR SIR: Please inform me what the chances are for me to escape the laws of the Choctaw and Chickasaw Nations in regard to fines for hiring non-citizens to run cattle or any other stock for wages; is not this contrary to the treaty? If I should be fined in the courts here could I not take an appeal and call on you for aid in this matter? I am a citizen of this nation myself; my father and mother both are citizens by blood, but nevertheless I am not in favor of this law and would like to test it if I knew for certain that I could get your help or protection. I would continue my business with non-citizen hands. It takes no unexperienced hands, therefore it is very hard to get a good citizen to work for wages; most of our hands heretofore have been non-citizens, and it would be very good if they could continue as long as they are working for wages under citizens of the nations. Please let me hear from you soon.

Very respectfully,

J. H. RILEY.

The SECRETARY OF THE INTERIOR.

PERMIT.

To all to whom these presents shall come, greeting:

Know ye, that I, Thompson McKinney, principal chief of the Choctaw Nation, by virtue of the authority in me vested by the constitution and laws of this nation, do hereby grant unto J. W. Childers, a citizen of the United States, a permit to remain in this nation and pursue the avocation of a gambler at McAlister, Tobucksy County, Choctaw Nation, for the period of twelve months, with the right and privilege to do all things necessary to the prosecution of such business so long as the said J. W. Childers shall obey the laws and regulations of the Choctaw Nation in regard to non-citizens resident therein, not inconsistent with existing treaties and the Constitution of the United States relating thereto, not contrary to the conforming to the rules and regulations respecting persons obtaining permits, and during good behavior. This permit to expire on the 15th day of October, 1887.

In testimony whereof, I have hereunto set my hand and caused the seal of the Choctaw Nation to be affixed.

Done at the executive office of the Choctaw Nation this the 14th day of October, 1886.

THOMPSON MCKINNEY,
Principal Chief, Choctaw Nation.

Attest:

ALINTON TELLE,
National Secretary.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October, 25, 1886.

SIR: Your letter of the 3d of July last to the Secretary of the Interior was duly referred to this office.

You asked to be informed "what the chances are for me [you] to escape the laws of the Chickasaw and Choctaw Nations in regard to fines for hiring non-citizens to run cattle or any other stock for wages? Is not this contrary to the treaty? If I should be fined in the courts here could I not take an appeal and call on you for aid in the matter?" adding that you are a citizen of the Choctaw Nation, but you are not in favor of this law, and would like to test it if you knew for certain that you could get help or protection from the Department.

In reply you are informed that the same question was very fully considered, in connection with the Chickasaw permit law, by the Senate Committee on the Judiciary in 1879, and formed the subject of Senate Report No. 698, Forty-fifth Congress, third session.

After citing the seventh article of the treaty of 1855, with the Choctaws and Chickasaws, the committee reported:

"The right of self-government by the Chickasaws, so far as it is compatible with the Constitution of the United States and the Indian intercourse laws, is thus recognized, and all persons not citizens or members of the tribe are, with certain specified exceptions, declared to be intruders, and subject to removal and exclusion from the Territory by the agent. There is nothing in this or the other articles of the treaty which prohibits the Chickasaws from exacting that those who, with the assent of the agent, are permitted to remain, and who desire to be employed, shall be required to enter into a contract with the Chickasaws, and that the latter shall apply for a permit upon the prescribed terms."

And, referring to the forty-third article of the treaty of 1866, the committee further reported:

"While the United States promises and agrees that no white person except certain classes specifically described shall be permitted to go into the Chickasaw territory, and declares that the article shall not be construed to affect parties theretofore adopted or to prevent the temporary employment of white persons who are teachers, mechanics, or skilled agriculturists, the Chickasaws are not prohibited from excluding, if they think proper, such persons, or from requiring that they if permitted to remain shall enter into a contract with the Chickasaws, and that the latter shall not employ or contract with them unless the permit contemplated by the act shall have been obtained."

The committee concluded by saying that there was nothing in the act in conflict with the forty-seventh article of the treaty above referred to, and expressed the opinion that the law was valid.

The same line of reasoning and conclusions of the committee will equally apply to the Choctaw law on the subject.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

Mr. J. H. RILEY,
Boggy Depot, Choctaw Nation, Ind. T.

EXECUTIVE OFFICE, *Tishomingo, Chickasaw Nation, November 13, 1886.*

SIR: My object in writing is to ascertain whether or not the Gulf, Colorado and Santa Fé Railway, now being built through our country, can be stopped. My people are bitterly opposed to it, they are being damaged to such an extent that the cost of the railroad would not repay them. They will feel it throughout time. Their route, though the most profitable to the railroad company, is not the most practicable. Please advise me in the premises, that I may know what course to pursue, and adopt such measures as will prove advantageous to these Chickasaws.

Your obedient servant,

W. M. GUY,
Governor Chickasaw Nation.

Hon. L. Q. C. LAMAR,
Secretary of Interior.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, December 1, 1886.

SIR: In reply to your letter of the 13th ultimo, addressed to the Secretary of the Interior and by him referred to this office, stating that your people are bitterly opposed to the construction of the Gulf, Colorado and Santa Fe Railway in the Chickasaw country by reason of the great damage it will do them, and inquiring whether it can not be stopped and what steps you should take in the premises, I inclose herewith for your information a copy of the original report made by the House Committee on Indian Affairs (Report 110, Forty-eighth Congress, first session), setting forth the principles upon which the measure was constructed, and the reasons of the committee for recommending its passage. I am not aware of any means by which the construction of the road can be stopped.

I also inclose a copy of the act of July 4, 1884, authorizing the construction of the road, and refer you to sections 3 and 5 for the provisions in regard to tribal and individual compensation and the manner of proceeding in case of dispute or dissatisfaction with the terms mentioned in the act or amount awarded by appraisers.

Under the provisions of section 3 a board of appraisers, consisting of Messrs. F. M. Dougherty, of Gainesville, Tex., Malcom McEachin, of Fort Smith, Ark., and John M. Galloway, Fort Scott, Kan., has been appointed by the President for the purposes named in the act, who, it is anticipated, will shortly enter upon their duties.

I am informed by the attorneys for the railway company that copies of the maps of the three first sections of the road have been transmitted for the files of your office and such action as the general council of the Chickasaw Nation may see proper to take thereon, as provided in section 5 of the act.

In case of doubt it might be well for you to take the advice of your regular attorney.

Very respectfully,

J. D. C. ATKINS.
Commissioner.

Hon. W. M. GUY,
Governor Chickasaw Nation, Tishomingo, Ind. T.

MCALISTER, IND. T., *December, 8, 1886.*

DEAR SIR: I have only lately come to this town as a missionary, leaving a large church (Baptist) of about four hundred members in Aurora, Ill.

We are here, wife and I, to do all we can to elevate the morals of this country, and especially for the Indian people, but I sincerely wish you might put a stop to the licensed gambling here, else I fear trouble may come of it, to say nothing of the demoralizing effect upon the town. The people want it stopped, but are afraid to utter the sentiment publicly for fear of incurring the ill will of those who keep them, who are not citizens of the nation; but I venture to write you confidentially of the matter. Is it not violation of the "intercourse law" in the United States treaty with the Indians in the Territory to license gambling, which is kept open on Sundays and week days. I may state confidentially to you that your policy with the Indians of this Territory is altogether right and feasible and ought to soon go into operation. One can see the wisdom and imperative need of the policy on the ground here better than those living at a distance. I pray your humane and civil policy may not long remain uncarried by Congress.

Very respectfully, yours,

REV. W. F. REQUA.

Commissioner ATKEN.

UNITED STATES INDIAN SERVICE,

Union Agency, March 31, 1886.

SIR: In answer to your favor of March 15 (L. 6397-1886) referring to disputed cases of Choctaw Nation as to why the law and agreement to appeal has remained inoperative, or as I previously expressed it, a dead letter, I have the honor to make the following report:

These cases for nearly one year lay on my predecessor's desk, and since that time it has been absolutely impossible for me to take them up for a like reason, to wit, a clerical force entirely inadequate to the needs of this agency and a consciousness that to hear these cases would consume many days.

There are 90,000 people in the agency, and every United States citizen who gets into trouble or wants information writes to the agent. I have felt it my duty to such men to answer as an officer of their Government. Indians in like manner apply, and the routine correspondence is thus very heavy.

Through this channel come many civil disputes by Indians claiming that white men are unjustly depriving them of their property and *vice versa* as the Kaiser-Degan affair, etc. These are numerous and importunate. I have just forty-three such cases now pending. Intruders by the hundred have to be notified, heard, and the complaints against them disposed of; over one hundred licensed traders in this agency to be looked after; the annuities to the Delawares, the Creek orphan rolls, the Choctaw freedmen rolls, the investigations specially ordered from time to time, such as the determination of the status of one hundred and ninety persons paid as Creeks in 1867, but whose location is now unknown; to furnish evidence as to justice or injustice of the claims of some nine hundred Creeks, who are alleged to have paid for their own transportation in moving west of the Mississippi, etc. The constant calls of persons at the office forms also an unavoidable interruption. The forms of the office to be made in triplicate, etc., afford, when considered all altogether, why, with the meager clerical force offered the agency, these Choctaw cases have been deterred.

In these cases to be reviewed by the Interior Department the parties will not only have to be heard, but the evidence at length recorded in writing.

There are about fifty cases, and if one a day could be heard and disposed of (and to take the evidence down in writing would in all human probability require an average of one day each) it would consume nearly two solid months of the agent's time.

It had been my purpose to suggest that the rule should, at least in future cases, be so modified in relation to this class of cases as to require the parties litigant to have the entire evidence on which they relied, then and there (at Choctaw Council) reduced to writing, and on this let the agent decide and transmit his views and the evidence to the Department.

The evidence could be made much more complete there, where the Choctaw records are, and where there are assembled all the leading Choctaws, a place naturally attractive to the witnesses, than before the Indian agent at point more or less remote from the center of the Choctaw people, in the absence of the leading men and those who knew the family histories, and where the attendance of witnesses is dependent alone on their pleasure, is expensive to them, and unremunerated except by some private agreement.

I would be glad to take these cases up and dispose of them, and would suggest that I be so directed, giving ample time for parties to receive notice. Their present location is in the much greater part unknown to this office and I do not see how I possibly could hear them before the 1st of August next. By that time I will try and clear the way.

The considerations I have offered for the reason of the delay are offered not in the spirit of complaint, because I am perfectly satisfied the office here is given all the force circumstances would admit, but I make the suggestions simply to explain how unavoidable the delay has been.

Your obedient servant,

ROBT. L. OWEN,
United States Indian Agent.

Hon. JNO. D. C. ATKINS,
Commissioner of Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 14, 1886.

SIR: I am in receipt of your communication, dated March 31, 1886, in which you explain at length the reasons why the appeals in cases of disputed Choctaw citizenship have not been heard, and suggest that the rule, at least in the future cases, should be so modified in relation to those as to require the parties litigant to have the entire evidence on which they relied before the Choctaw council reduced to writing, and let the agent decide upon this and transmit his views and the evidence to the Department.

In reply I have to state that I am informally advised by Hon. Campbell Lafore that in all cases of citizenship tried before the Choctaw council the evidence was reduced to writing and is on file with the proper officer.

In hearing appeals the parties or the Choctaw authorities should be required to produce the record or authenticated copies thereof in each case, and the witnesses who testified before the council should not be allowed to again testify before you. You should, however, receive such other "proper evidence, without distinction as to race of witnesses, as may be presented," which evidence should also be reduced to writing.

The testimony taken before the council, as well as that taken by you, should be transmitted to this office with your findings thereon.

As soon as the business of your office will permit you will fix a time for hearing all appeal cases pending before you, following the instructions of March 22, 1884, except as herein modified.

Ample notice should be given of the time and place of hearing that the parties may not be taken by surprise.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

OFFICE OF INDIAN AFFAIRS,
Washington, April 16, 1886.

OWEN, AGENT, Muscogee, Ind. T.:

War Department by letter of 12th instructed commanding officers at Reno and Sill to co-operate with you in removing cattle from the Chickasaw country. Similar instructions telegraphed them to-day.

J. D. C. ATKINS,
Commissioner.

POST-OFFICE DEPARTMENT,
Washington, D. C., April 15, 1886.

SIR: I am directed by the Postmaster-General to forward to you letter from Samuel Sixkiller, captain, United States, Indian police, Muscogee, Indian Territory, in which he states he has been ordered to move the cattle out of the Chickasaw Nation, and asks that a post-route map of Arkansas and the Indian Territory be furnished him. Will you please inform me if he has been so designated, and is it necessary that he should have these maps.

Very respectfully,

T. E. NASH,
Chief Clerk,

Hon. COMMISSIONER INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 19, 1886.

SIR: In reply to your letter of the 15th instant, transmitting a letter from Samuel Sixkiller, captain United States Indian police, Union Agency, Ind. T., requesting to be furnished with a post-office map of Arkansas and the Indian Territory, to aid him in carrying out order for removal of cattle from the Chickasaw Nation, and asking whether he has been designated for that purpose, and whether it is necessary he should have said maps, I have to say Sixkiller is undoubtedly acting under orders from the United States Indian agent (R. L. Owen) at the Union Agency, Ind. T., to whom instructions to the effect mentioned were, by authority of the Department, addressed by this office on the 9th instant.

So far as this office is at liberty to express an opinion on the matter, I should say that there would be no objection to furnishing the agent with maps required for Sixkiller's use.

Captain Sixkiller's letter is herewith returned.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

T. E. NASH, Esq.,
Chief Clerk, Post-Office Department, City.

S. Ex. 219—2

UNITED STATES INDIAN SERVICE,
 KIOWA, COMANCHE, AND WICHITA AGENCY,
Anadarko April 15, 1886.

SIR: I have the honor to inclose herewith a circular that I have caused to be distributed along the border of this reservation on the line of the Chickasaw country and Texas, for the following reasons, and which I hope will meet with your approval.

Heretofore it has been the custom of parties holding cattle in the Chickasaw Nation to enter this reserve each spring at the time of the general round-up, ostensibly for the purpose of collecting estrays, and in many instances gathering cattle illegitimately held here, and in removing the cattle drive off cattle belonging to Indians of this reserve. There will be an unusual number of these parties this spring, owing to the fact that a great portion of the Chickasaw country was burned over last fall, and more cattle driven across the line in consequence.

I propose to stop the removal of cattle belonging upon the reserve and to remove others by being present with sufficient force to control the movement of herds until thoroughly examined, and issued the circular with this end in view. I will call upon the military for assistance, as the line is too long to be controlled by the police alone, and, if my action meets with your approval, I would be thankful for instructions from you as to asking the necessary assistance of the United States troops in enforcing this order.

Very respectfully, your obedient servant,

J. LEE HALL,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

UNITED STATES INDIAN SERVICE,
 KIOWA, COMANCHE, AND WICHITA AGENCY,
Anadarko, Ind. T., March 11, 1886.

This is to notify all persons interested that no cattle will be permitted to be rounded-up and removed from this reserve in the spring without due notice to this office, and a full understanding as to time and place when the cattle will be gathered and removed.

Any person violating this order will be considered a trespasser and punished as the law in such cases provides.

J. LEE HALL,
United States Indian Agent.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 26, 1886.

SIR: I inclose herewith a copy of a letter dated the 15th instant, from Agent Hall, Kiowa, Comanche, and Wichita Agency, stating that heretofore it has been the custom of parties holding cattle in the Chickasaw Nation to enter the Kiowa reserve each spring at the time of the general round-up, ostensibly for the purpose of collecting strays, and in many instances gathering cattle illegitimately held there, and in removing the cattle drive off cattle belonging to the Indians.

It appears that an unusual number of these parties are expected on the Kiowa reserve this spring, owing to the pasturage in the Chickasaw Nation being largely burned up, and more cattle driven across the line in consequence.

Agent Hall proposes to stop the removal of cattle belonging to the reserve by being present with sufficient force to control the movement of herds until thoroughly examined, to which end he has issued a circular, copy whereof is inclosed, and he requests the assistance of the military, as the line is too long to be controlled by the Indian police alone.

I have the honor to recommend that the honorable Secretary of War be requested to direct the co-operation of the troops stationed at Forts Reno and Sill in this movement in connection with the orders of the 6th instant in reference to the removal of cattle from the Chickasaw Nation, and of which this office was advised by War Department letter of the 19th instant.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 26, 1886.

SIR: I am in receipt of your letter of the 15th instant, inclosing copy of a notice issued by you on the 11th ultimo relative to the spring round-up and removal of cattle from the reservation, with a view to protect the Indian cattle thereon, which notice meets with the approval of this office.

In accordance with your request I have this day forwarded a copy of your letter to the Department, with a recommendation that the honorable Secretary of War be requested to direct the troops stationed at Forts Reno and Sill to co-operate with you in connection with the orders already issued with reference to the cattle in the Chickasaw Nation.

You are therefore directed to call upon the commanding officers of those posts for the necessary assistance.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

J. LEE HALL, ESQ.,
*United States Indian Agent,
 Kiowa, Comanche, and Wichita Agency, Anadarko, Ind. T.*

[Telegram.]

IN THE FIELD, *Oklahoma, Ind. T., May 15.*
(Via Dodge City, Kans., May 16, 1886.)

COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.:

A number of boomers, horse thieves, etc., in Chickasaw, just over the Oklahoma line; they have no permission to be there, only waiting chance to enter Oklahoma. Shall I arrest them, or would you prefer Agent Owen to act in the matter. Answer Reno.

E. V. SUMNER,
Major, Fifth Cavalry.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, May 17, 1886.

SIR: I inclose herewith a copy of a telegram just received in this office from Maj. E. V. Sumner, commanding at Fort Reno, Ind. T., dated, "In the field, Oklahoma, Ind. T., May 15," stating that a number of boomers, horse thieves, etc., are in the Chickasaw Nation, just over the Oklahoma line; they have no permission to be there and are awaiting a chance to enter Oklahoma. Major Sumner inquires whether he shall arrest them or whether Agent Owen shall act in the matter.

I have the honor to recommend that the communication be referred to the honorable Secretary of War, with the request that he will cause the necessary orders to be issued directing Major Sumner (by telegram to Reno) to take immediate action in the premises.

Very respectfully, your obedient servant,

A. B. UPSHAW,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

MCALISTER, IND. T., *April 12, 1886.*

DEAR SIR: Please pardon this intrusion on your time with my grievances, as I feel that great injustice is being done me, and you are the only one that can adjust it.

(1) I am a citizen of the Choctaw Nation by blood, and my claims are denied in the face of the following evidence: I went before our general council with my lawful and respectful witnesses, the first of whom was my uncle, J. W. Moore, who swore that he was a Choctaw citizen by blood, and that his claims had never been denied since he established it in April, 1874 (and he is a man of great possessions, so that if there was any room for complaint it would have been made by his competitors, etc.) He also swore that my mother was his full sister and also a Choctaw by blood. My other witnesses testified to about the same facts, and I expect you have this evidence in your office, which you can examine and see if my statements are correct. You will also see that the nation could not produce any evidence to dispute mine. After the unexpected decision according to our laws I appealed to the United States agent, and from him it goes to you for final decision.

So with my appeal. I had a transcript of all touching on my case prepared by our national secretary and forwarded to the agent seventeen months ago, and from which I have continually expected to hear. I have just received the following note from the agent:

"The matter of your citizenship claim has been submitted to the Hon. Commissioner of Indian Affairs, and as soon as I receive any information in the matter you will be promptly informed.

"Very respectfully,

"ROBT. L. OWEN,
"United States Indian Agent."

I suppose by this that the final decision is about to be reached, which I hope and pray may be the case, for as it is it is exceedingly injurious to my usefulness and finances. If I thought it was necessary I would produce additional evidence, as our laws do not admit of any kind of witnesses except citizens of this nation (Choctaw) before our council on citizenship cases; but if the evidence is not sufficient I know not what kind would suffice. Hoping to hear from you soon, and to learn that your decision is made,

I am yours, respectfully,

A. FRANK ROSS.

Hon. COMMISSIONER OF INDIAN AFFAIRS.

P. S.—Should you need statistics, or information otherwise, I will take great pleasure in furnishing the same (about this Territory). I will also be pleased to publish in my paper any of your decisions or announcements on the Indian subject.

Yours, etc.,

A. F. R.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, June 2, 1886.

SIR: I am in receipt of a communication from A. Frank Ross, a claimant to Choctaw citizenship, dated April 12, 1886, in which he states that he had just received a note from you saying that his claim had been submitted to this office.

No papers have been received here relating to the matter.

If the claim was transmitted as indicated by Mr. Ross, you will furnish the date of transmittal, and if not, give the present status of the case.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muskogee, Ind. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, June 4, 1886.

SIR: I have the honor to acknowledge the receipt, by Department reference for investigation and report, of a communication from Hon. S. B. Maxey, dated May 25, 1886, in which he calls attention to the case of S. R. McDonna, in which he states he feels much interest.

It appears from the files and records of this office that on the 18th of September, 1879, Samuel McDonna was informed, in reply to an inquiry from him that the proper course for him to pursue to have his rights in the Chickasaw Nation determined, and in the event they should be infringed, was to apply to the proper officials of said nation, and that until this was done and said officials refused to act in the matter or improperly rejected his claim no opinion should be expressed in the premises.

July 9, 1883, late Agent Tufts forwarded a letter from the sheriff of Kiamitia County, Choctaw Nation, stating that one Sam McDonald (supposed to be McDonna) a white man, claimed to be a citizen of the Choctaw Nation; that Dr. McDonald, father of Sam, a white man, married a Chickasaw woman who died; and that Dr. McDonald afterward moved to Texas, and there married a white woman, the claimant being the issue of the last marriage.

To this communication the office replied, under date of July 25, 1883, to the effect that the claimant had no rights in the Choctaw or Chickasaw Nation.

It is presumed that Dr. McDonna was married to his Chickasaw wife prior to the conclusion of the treaty of April 28, 1866 (14 Stats., 769).

The thirty-eighth article of that treaty provides that "every white person, who, having married a Choctaw or Chickasaw, resides in said Choctaw or Chickasaw Na-

tion, or who has been adopted by the legislative authorities, is to be deemed a member of said nation, and shall be subject to the laws of the Choctaw and Chickasaw Nations according to his domicile," etc.

So far as this office is advised there was no Chickasaw law regulating intermarriage with whites prior to 1872.

By the present law of the nation, enacted October 19, 1876, no marriage theretofore solemnized, or which might thereafter be solemnized, between a citizen of the United States and a member of the Chickasaw Nation, can enable such citizen to confer any right or privilege whatever in that nation by again marrying another citizen of the United States, or upon such other citizen of the United States or their issue.

In letter of July 25, 1883, the views of this office were expressed as follows:

"The rights acquired by a citizen of the United States by marrying into and becoming incorporated with the Chickasaw Nation are acquired through the person to whom married, they attach and become vested by reason of such marriage, and the acquisition of such rights does not confer the power to transfer them to another citizen of the United States who has acquired no rights with the nation. Whatever rights Dr. McDonna may have acquired by marriage into the Chickasaw Nation were acquired through his wife; they were personal to himself alone, and extended no farther; he was entitled to such rights (by virtue of the treaty of 1866) so long as he maintained his acquired relationship, and no longer; such rights were subject to forfeiture by abandonment, or otherwise, and when McDonna severed his relationship with the Chickasaws by moving out of their country, abandoning his residence among them, and marrying a citizen of the State of Texas, all his rights in the Chickasaw Nation terminated and ceased to exist, and his children by his second marriage (to a white woman) have no rights whatever in the Chickasaw Nation."

From these views I see no reason to dissent, nor do I think the fact (if such be the case) that S. R. McDonna was permitted to remain in the nation for a time, gave him any vested rights.

He was informed seven years ago that his case must be considered by the Chickasaw authorities and that no action would be taken by this office until they had done so and decided improperly.

He has never informed this office of the action taken or appealed to it from such action.

The policy of making Indians of white men married to Indian wives is of doubtful expediency, to say the least, and in no case should the privilege (?) be extended beyond them and their Indian children.

I return Senator Maxey's letter and inclosure, and transmit a copy of this report.

Very respectfully, your obedient servant,

A. B. UPSHAW,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,

Washington, June 26, 1886.

SIR: I am in receipt, by your reference, of a communication from Jeremiah Ward, dated June 6, 1886, in which he incloses certified copy of the decision of the county judge of the Choctaw Nation, refusing his application for permits to hire certain citizens of the United States on the ground that he has been declared a non-citizen, and asks whether his right has ever been acknowledged to the Department, as he would like to have some showing in case the Indian agent should order all non-citizens that did not obtain permits out of the Territory.

In reply I have to state that so far as I am advised Mr. Ward's case has never been before the Department, and that the Department does not pass upon claims to Choctaw citizenship, except in case of appeal from the Indian agent.

October 21, 1882, the Choctaw council passed an act for determining all cases of disputed citizenship, which act was approved by the Secretary of the Interior March 15, 1884.

Under date of March 22, 1884, the Indian agent at the Union Agency was instructed to notify all disputed claimants to citizenship, whose names should be furnished by the Choctaw authorities, to appear at the then next ensuing session of the proper tribunal and submit their claims for adjudication, as provided in the above-mentioned act; that failing to do so they would be deemed intruders and removed from the Territory; that thirty days would be allowed in which to appeal from an adverse decision of the Choctaw tribunal to the agent, and that the evidence in all cases appealed to the agent should be forwarded to this office for final determination by the Department; all parties failing to pursue their appeal and all those finally adjudged to be intruders to be removed from the Nation.

Mr. Ward, therefore, can not be removed as an intruder until his case has been adversely determined by the Choctaw council, the Indian agent, and the Department if he chooses to appeal as provided in the foregoing instructions. I return the papers.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

HON. JOHN H. ROGERS,
House of Representatives.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., September 3, 1885.

SIR: I have the honor to transmit therewith petitions of J. M. Lindsay and R. S. Rollins, which fully explain themselves. The parties complained of, viz, L. S. Williams, W. H. Williams, and J. S. Addington, are citizens of the United States, who are grazing cattle on the Chickasaw Reservation in violation of the laws of the Chickasaw Nation and the United States.

They are indebted to certain parties in the State of Texas, and have refused to pay just indebtedness, though they have ample means to do so. They are holding their property within the Indian Territory, and cannot be compelled to pay.

I respectfully recommend that the agent at this agency be directed to remove said cattle from the Indian Territory immediately.

Very respectfully,

JNO. Q. TUFTS,
United States Indian Agent.
pr. WISDOM.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October 5, 1885.

SIR: In connection with my letter of this date transmitting petition of R. S. Rollins, United States citizen, and answer of Frank Murray, Chickasaw citizen, relative to partition and removal of certain cattle claimed by Rollins from the Chickasaw Nation, I inclose herewith a memorial of said Rollins and J. M. Lindsey, also a United States citizen, praying an order for the removal from the said nation of certain cattle held there by S. L. Williams and W. H. Williams, citizens of Texas, in fraud of creditors.

Also a memorial of said Lindsey with reference to one Addington, also a citizen of Texas, alleged to be unlawfully holding cattle in the Indian Territory in like fraud, and praying for their removal.

The papers were received from Agent Tufts on the 7th ultimo, with a simple letter of transmittal.

You will investigate these cases also and report.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

R. L. OWEN, Esq.

United States Indian Agent, Union Agency, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., October 21, 1885.

SIR: I have the honor to inquire what is the status of claimants to citizenship in the Chickasaw Nation, Ind. T., who have established prima facie cases of citizenship in said Nation? Are they entitled to the same rights and privileges accorded them in the Choctaw Nation? or, in other words, if their claims to citizenship are defeated before or rejected by the Chickasaw legislature, can they have the right of appeal to this agency, or is the decision of the legislature as against claimants final? Certain parties defeated before the legislature of the Chickasaws have prayed an appeal to this office, and have asked for hearing before me, and hence I write to the Department for instructions in such cases.

Very respectfully, your obedient servant,

ROBT. L. OWEN.

HON. COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October 31, 1885.

SIR: In reply to your communication, dated October 21, 1885, you are informed that the Chickasaw Nation has not adopted a satisfactory plan for determining disputed claims to citizenship, as has been done by the Choctaws.

While this Department does not assume the right to invest claimants with Chickasaw citizenship, it does assume and exercise the right to determine what persons shall be removed as intruders.

This question should be dealt with in the Chickasaw Nation in the same manner as in the Cherokee Nation, *i. e.*, all persons who establish a *prima facie* right to citizenship will be permitted to remain until such time as a basis of settlement satisfactory to both the nation and the Department is adopted, and their claims finally determined upon such basis.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, December 31, 1885.

SIR: I have the honor to report that D. W. Bushyhead, principal chief of the Cherokee Nation, called at this office a few days ago to consult me as to some speedy plan of settlement of disputed citizenship. This subject has grown to great proportions and is a most serious evil, giving rise to numerous civil and criminal cases, over which no court exercises jurisdiction—the Indian courts refusing cognizance because they are not recognized as Indian citizens, and the United States courts declining to touch them because parties are Indians.

The reports of Special Agents Ward and Beed will be found as urging and emphasizing the importance of the matter.

The Cherokees have just passed a law, which they desire submitted to you, and then will call a special session of the national council to take further action. You may judge from this contemplated action how important it is deemed by them.

Mr. Bushyhead desires me to present this law to you in person, with the views of the Cherokees, in order to effect a speedy and permanent settlement of this most serious evil.

The Choctaws approved and passed a law, accepted as satisfactory by the Department, which has remained a dead letter for reasons I desire to explain to you, with suggestions of a remedy.

These questions are of such importance and such a nature that it seems to me important to present them to you personally. I therefore respectfully request that I be authorized and directed to proceed in person to Washington, D. C., with the papers in the case, for the purpose of consummating a speedy and permanent settlement of a matter of great moment to the Indian people and the peace and dignity of the Government.

Very respectfully, your obedient servant,

ROBT. L. OWEN,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 11, 1886.

SIR: Referring to your communication dated December 31, 1885, relative to the Cherokee citizenship question, and in which you request to be authorized and directed to proceed to this city with the papers in the case for the purpose of consummating a speedy and permanent settlement of a matter of great moment to the Indian people and the peace and dignity of the Government, I have to state that it is not considered advisable at this time to comply with your request.

I would be glad to receive a written statement of the reasons why the Choctaw law, with reference to cases of disputed citizenship, is a "dead letter," with any suggestions you may be pleased to make in regard to a remedy for the same.

Very respectfully.

J. D. C. ATKINS,
Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

BLUE COUNTY, CHOCTAW NATION, IND. T., *January 14, 1886.*

DEAR SIR: I wrote you in behalf of Mrs. Emma Webb, a daughter of James R. Reynolds, a citizen of the United States, who married Fawcett B. Dean, a Choctaw Indian then residing in the State of Alabama. When the tribe was moved to this country Mrs. Reynolds remained with her husband. Miss Emma Reynolds, now Mrs. Webb, two years after the treaty between the Choctaw Indians and the United States, removed to Mississippi, where they remained until April, 1843. Thence to Texas, where she was married to James M. Webb, at Palestine, Tex., in 1847. They left Texas in 1867 and have been living here since last-named year. Mrs. Webb is quite an old woman and wishes to establish her claim to the privileges of her tribe in the Indian Territory, and is in fact a half-breed Choctaw to all intents and purposes. I have known the Webb family for the past fifteen years, and have always regarded Mrs. Webb as an Indian. They are intelligent, honest, sober, industrious and very pious members of the Missionary Baptist Church and are very desirable citizens for any community, and they are in full affiliation with the balance of the Choctaws.

I am entirely ignorant with regard to the proper course to pursue to reinstate Mrs. Webb fully in every particular with her tribe, but I feel sure you will do all you can for this Indian lady in the direction indicated.

Please see Hon. D. B. Culberson and I know he will indorse any statement I may make. Mr. J. M. Webb was in Colonel Culberson's regiment a part of the late war, and I know he will be glad to aid any of his old friends. I am at present in the Territory professionally, where I have been practicing for the past sixteen years, and if my attempts to connect myself with your Department were futile, I may in a feeble way be of some outside assistance to you and your wards. Thanking you most cordially for your past recent courtesies, I am, meanwhile, my dear sir,

Yours, very truly,

J. S. DORSET, M. D.,
Bonham, Tex.

Hon. J. D. C. ATKINS,
Indian Commissioner, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 23, 1886.

SIR: I am in receipt of your communication, dated January 14, 1886, in which you refer to the case of Mrs. Emma Webb, a half-breed Choctaw, who has resided in that nation since 1867, and state that she desires to establish her claim to citizenship.

In reply I have to state that under the provisions of the act of the Choctaw council, approved October 21, 1882, Mrs. Webb should make application to the proper tribunal of the Choctaw Nation. If her claim is refused, she should then appeal to the agent, as pointed out in said law and in the instructions given to late agent Tufts, copy of which will be found in the annual report of this office for the year 1884, (page 44) copy inclosed.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

J. S. DORSET, M. D.,
Bonham, Tex.

WASHINGTON, D. C., *March 1, 1886.*

SIR: Previous to the session of the Choctaw National Council in the year 1884 an arrangement or agreement was made between the Choctaw authorities and the Indian office, by which those persons who asserted or claimed the rights of Choctaw citizens should have an opportunity of proving to the Choctaw council their rights to enjoy the privileges of a Choctaw citizen. These persons were to be notified by the United States agent to present their proofs of citizenship to the council, or a committee thereof, within a specified time, and they were so notified. You will find a list of the names of those persons who asserted claims to citizenship and appeared before the council in obedience to the notice of the United States agent, and also the result of the examination made in each case. Some of the persons whose names are found in said list, being dissatisfied with the result of the examination made by the council, appealed therefrom to the United States agent, and the cases thus appealed to that agent have not yet been acted upon or disposed of by the agent to whom an appeal was taken.

You will observe by the inclosed letter, which I have recently received from the principal chief of the Choctaw Nation, that it is the desire of the Choctaw authorities that these appeals should be considered and decided by the United States agent as soon as may be practicable, in order that the right of citizenship, so far as these persons are concerned, may be finally determined. The uncertain status of these persons has become a source of annoyance, as they now refuse to recognize either the authority of the United States or the Choctaw Nation. It is respectfully requested that you will instruct the United States agent to decide upon the appeals now pending before him in said cases, and take such steps as may be necessary to remove from the Choctaw Nation such of the persons, named in the above list, as he shall decide, upon examination, not to be entitled to the rights of a Choctaw citizen.

In the case of Chandler, to which the chief refers in his letter to me, it is the desire of our authorities that he should be required to establish his right to Choctaw citizenship or be excluded from the enjoyment of those rights which he claims as a Choctaw citizen. If he is a Choctaw citizen he can prove that fact, and thus secure the right to remain and be subject to the Choctaw laws and jurisdiction. In behalf of the authorities of the Choctaw Nation, I respectfully request that the United States agent be instructed to make a special examination and report in regard to the claims to citizenship asserted by this man Chandler. He refused to appear before the council and submit his proofs of Choctaw citizenship when requested or notified by the United States agent to do so. It is also requested that those persons whose rights to Choctaw citizenship were rejected by the council upon the investigation made under the notice given by the United States agent, as well as those persons who failed to appear in obedience to the notice of the agent, and those who have done nothing to hold good their appeals from the decisions of the council, shall be regarded as "intruders" within the meaning of our treaty stipulations with the United States, and the United States agent be directed to take such steps as will insure their removal from the Choctaw Nation.

I am, very respectfully, your obedient servant,

CAMPBELL LEFLORE,
Special Delegate of the Choctaw Nation.

THE COMMISSIONER OF INDIAN AFFAIRS.

[Of the Choctaw Nation, bill No. 62.]

TUSHKA HOMMA, November, 1884.

To the General Council of the Choctaw Nation assembled:

Your committee on disputed citizenship would most respectfully report that fifty-two petitions were filed with the national secretary and submitted to us for examination, petitioners appearing in their own persons and by attorneys. All witnesses offered were sworn, and testified in behalf of petitioners and the Nation without regard to race or color; and that upon a fair and full examination of the petitions of claimants to citizenship, make the following report of the petitions:

	Name.	Disposition.	Remarks.
1	Harman Mickel.....	Rejected	White man and white family: no residence in Nation since 1886.
2	A. F. and W. T. Ross.	do	No proof of Choctaw blood or marriage.
3	Wilson M. King	do	No proof of Choctaw blood.
4	James M. Bragg	do	White man and white family; no Choctaw blood.
5	James Biddie	do	No Choctaw blood.
43	Mary C. Barker	do	Do.
44	William Langford	do	Do.
45	James Langford	do	Do.
36	Elizabeth Deaton	do	Do.
6	Elizabeth Grant	Allowed	Claimant, mother of two Choctaw children living with her.
7	Nelly Sweeden	Rejected	Negro.
8	Mathew Jennings	do	No evidence introduced.
9	W. M. Moore	do	Choctaw blood not proven.
10	J. H. Kilpatrick	do	Not married as Choctaw law requires; separated from wife.
11	John Wheelons	Continued next council	No Choctaw blood in either.
12	S. A. Donald	Rejected	White man and white wife.
13	William Decker	Continued to next council	White wife.
14	W. T. Stephen	Rejected	White man and white family.
15	H. Justice	do	White man and white wife.
16	Martha Carroll	do	No Indian blood proven.
17	E. Parnell	Withdrawn	Living in adultery with white man.

	Name.	Disposition.	Remarks.
18	Emily Jones.....	Allowed.....	Indian blood proven.
19	Charles Lewis.....	Continued to next council.....	White man and white wife and child; no Indian blood.
20	R. D. Bell.....	Allowed during good behavior, or until minor children are of age.	Lives with Choctaw children; is a widower.
21	John C. Gleen.....	Rejected.....	No Choctaw blood.
32	Charles Gleen.....	do.....	Do.
33	J. B. Tucker.....	do.....	Do.
34	Sarah Gleen.....	do.....	Do.
35	Cassie Cluminger.....	do.....	Do.
37	Joe Smith.....	do.....	Do.
38	Morris Smith.....	do.....	Do.
39	Kizzie Heweve.....	do.....	Do.
40	Margaret Tucker.....	do.....	Do.
41	Fannie Barnes.....	do.....	Do.
42	Elisha Pate.....	do.....	Do.
22	James Tucker.....	do.....	White man, Catawba wife.
23	J. M. Bynum.....	do.....	White man and white wife.
24	F. P. Morgan.....	Allowed during good behavior, or until minor children are of age.	White man with Choctaw children; widower.
25	William Dyer.....	Set aside for want of testimony.	Widower.
26	A. C. Perryman.....	do.....	No proof.
27	Wiley Adams.....	Allowed.....	White man with Creek wife and no Choctaw blood; Chickasaw children; no proof.
28	Jesse George.....	Set aside for want of testimony.	No proof.
29	C. McNelly.....	do.....	Do.
30	James London.....	do.....	Do.
31	C. Turnbeaugh.....	Withdrawn.....	Whites; white family; no Choctaw blood.
48	Franklin Strube.....	Rejected.....	No Choctaw blood.
50	McH. Morris.....	do.....	Indian wife, supposed.
53	J. A. McCormick.....	Continued to next council.....	Both whites.
54	E. Casey.....	Rejected.....	White man with Indian wife.
57	G. Rosenthal.....	Allowed during good behavior, or until minor children are of age.	Three Choctaw children of former Choctaw wife.
58	T. Ashford.....	do.....	White man with white wife; one Choctaw child, claimed.
59	Mary Godard.....	Rejected.....	

Your committee, to whom was referred the petitions on citizenship claims, would beg leave to submit the following report and ask its adoption.

WILLIAM ROBUCK,
Chairman Committee.

Approved November 6, 1884.

ED. MCCURTAIN,
P. C. C. N.

[Bill No. 63.]

TUSHKA HOMMA, CHOCTAW NATION, *October 31, 1884.*

To the General Council:

Your committee, to whom was referred the petition and certain accounts of J. R. Harris for services rendered the Choctaw Nation in the year 1875 in making two transcript copies of the reservation land claims and two manuscript copies of suspended claims for the use of the court of claims of the Choctaw Nation, as by agreement with Coleman Cole, according to the itemized account of said J. R. Harris herewith, have examined and considered the said petition and submit the following bill and respectfully ask that it be passed:

EXECUTIVE OFFICE, CHOCTAW NATION,
Sans Bois, Ind. T., February 22, 1886.

SIR: Your communication of 9th instant at hand, glad to hear that you arrived at Washington safe, and putting yourself in readiness to baffle with unjust claims against our Nation. In addition to your duty as delegate to look after the royalty interest of the Choctaws, you will also urge upon the Commissioner to hurry up the citizenship-claimant court. The fact is, those claimants are a source of considerable annoyance to our people, for want of jurisdiction over them, and the natural consequence is, they violate and trample upon our laws and defy apprehension. You will also

talk to the Commissioner concerning the Chandler case, with which no doubt you are familiar. He is now, I have been told by good authority, making considerable improvements in Sugar-loaf County, in the shape of large farms, not only in one place, but here and there. Now Chandler, he claims, as you know, to be a Choctaw, yet refuses to appear before the proper tribunal to identify himself. See what you can do in the way of ridding this impostor (Chandler) from our country. May success crown your efforts, is the sincere wish of

Your friend,

EDMUND MCCURTAIN,
Principal Chief Choctaw Nation.

Col. C. LEFORE,
Choctaw Delegate, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 15, 1886.

SIR: In letter dated January 11, 1886, I remarked that I would be glad to receive a written statement why the Choctaw law with reference to cases of disputed citizenship is a "dead letter," with any suggestions you might be pleased to make in regard to a remedy for the same.

I am now in receipt of a communication from Hon. Campbell Laflore, Choctaw delegate, in which he requests that you be instructed to decide upon the appeals now pending before you.

Before acting upon this request I desire to have an answer to my letter of January 11, 1886, and you will forward the same as soon as a due regard to your other official duties will permit.

Very respectfully,

J. D. C. ATKINS.
Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

WOODFORD, CHICKASAW NATION, *July 30, 1885.*

Hon. L. Q. C. LAMAR,
Secretary of the Department of the Interior, Washington:

Please allow me to address you on a subject of great importance to myself and family, but of no interest to you. My wife is a quarter Choctaw woman, born in the Nation in 1857, and carried to the State of Missouri while an infant, in time of the war, where I married her in 1874. Now I have good proof of this by white men non-citizens of the Territory, but the Indians require me to give citizen evidence; this I can not do only circumstantial, from the fact her parents and most of her relatives are dead. Now, must I abide by an Indian decision, or can I appeal to the United States or your honor for protection. I have been in the Territory five years and have made valuable improvements, which I dislike very much to be forced to abandon when I have a right here to live. A reply from your honor in answer to this will be graciously received by your humble servant,

A. T. SUMMERFIELD.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, September 2, 1885.

SIR: Replying to your letter dated July 30, 1885, received by Department reference, with reference to your right to reside in the Chickasaw Nation on account of your wife's Choctaw blood, I have to state that you have to appeal to the United States Indian agent, submitting such evidence as you can procure.

This Department claims the right to determine finally who are intruders in the Chickasaw Nation, and will give you an opportunity to present your claim.

Very respectfully,

J. D. C. ATKINS,
Acting Commissioner.

A. T. SUMMERFIELD, Esq.,
Woodford, Chickasaw Nation, Ind. T.

CHOCTAW AND CHICKASAW NATIONS.

UNITED STATES INDIAN SERVICE,
Union Agency, Muskogee, August 14, 1885.

SIR: I have the honor to report that I received the inclosed statement from Mr. Rollins, with instructions to forward to the Interior Department at once.

I have notified Mr. Frank Murry, who is defendant in the case, of the claim of Mr. Rollins, and requested him to make answer without delay, which will be forwarded to you immediately on receipt.

Mr. Rollins is a citizen of the United States, and, I am informed, responsible.

Mr. Murry is a citizen of the Chickasaw Nation.

Very respectfully, your obt. servant,

JNO. Q. TUFTS,
United States Indian Agent.

HON. COMMISSIONER INDIAN AFFAIRS.

PICKENS COUNTY, CHICKASAW NATION, *August, 1885.*

DEAR SIR: Your attention is called to the fact that this country is overrun by non-citizens or white men and their stock, and has been for some time, but to a greater extent within the last two years, about which time the cattle boom got so high; a rush was made for this country, and especially this county, as it borders on Red River along the line of Texas; the river is quite low most of the time, therefore it affords us no protection against their cattle; the result is that our little herds of cattle are scattered, and in many instances driven off; our fields are overrun in the fall and winter, the fences pulled down in order for their cattle to get the benefit of our fields, and unless we can get some protection from the United States our grass will soon be gone and our country in the hands of non-citizens.

I will give you one instance: I have a place in charge near the line that belongs to my sister, Mrs. Colbert, a widow, on which there is a vacant house in which two men, non-citizens by the name of Hickumbotton and Berry, have moved into without my consent, and have turned loose their cattle, which fact I have reported to our permit collector, but they are still there. A great many men that live in Texas drive their cattle over and turn them loose on us, and say that we can not help ourselves as they are outside of our laws; that we can not interfere with their stock and can not order them out as they do not live in the Nation. You will please cause this matter to be looked into and give us the protection that the United States have promised. I think it will require the United States soldiers to remove them.

Yours respectfully,

ROBT. H. LOVE.

HON. L. Q. C. LAMAR,
Secretary Interior, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, September 10, 1885.

SIR: I inclose herewith a copy of a letter received, by Department reference, from R. H. Love, of Pickens County, Chickasaw Nation, asking protection from the Government against the intrusions of numerous white men, who with their stock are overrunning the Chickasaw country.

I would suggest that you place yourself in communication with the Chickasaw authorities in order that, if the complaints are well founded, the subject may be brought to the attention of the office in proper and authoritative shape.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

JOHN Q. TUFTS, Esq.,
United States Indian Agent, Union Agency, Muskogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muskogee, Ind. T., September 3, 1885

SIR: I have the honor to transmit herewith petition of Messrs. Gatewood & Edwards, citizens of the State of Texas, which explains itself. The cattle these parties claim are in the hands of Richard McLish, a Chickasaw citizen, who obtained peaceable possession of them, and while I have no doubt they (or at least

part of them) justly belong to Gatewood & Edwards, I know of no law that applies to this Territory under which McLish can be compelled to release the cattle.

I respectfully request that instructions be sent to the agent at this agency at once.

Very respectfully,

JNO. Q. TUFTS,
United States Indian Agent.
Per WISDOM.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, September 17, 1885.

SIR: I am in receipt of a letter from [late] Agent Tufts, dated the 3d instant, transmitting a petition of Gatewood & Edwards, citizens of the United States, of Ennis, Tex., asking to be put in possession of 97 head of cattle alleged to be wrongfully detained from them by one Richard McLish, a citizen of the Chickasaw Nation.

The facts disclosed by the petition appear to be as follows:

In June, 1883, Gatewood & Edwards sold to one Addington, also a citizen of the United States, 4,490 head of cattle, taking his promissory notes therefor at various dates, amounting to \$48,034.67, and interest.

Addington then transferred the cattle to E. J. Vaughn, a Chickasaw citizen, in order to get grazing in the Indian Territory.

Vaughn immediately afterwards retransferred to Addington, in order to place title where it rightfully belonged, viz, in Addington.

Having, then, no legal title, Vaughn had bill of sale to him from Addington recorded at Tishomingo, Chickasaw Nation. This it is stated was done to convey the impression to the Chickasaws that the cattle belonged to Vaughn; in short, to get the grass for Addington's cattle.

Addington agreed to pay Vaughn \$1,500 per annum for holding the cattle in the nation, and because of Addington's failure to pay Vaughn refused to hold the cattle any longer, and in October, 1884, conveyed them to Richard McLish, also a Chickasaw citizen, to hold for Addington, and pretended to the Chickasaws that he had conveyed title to McLish, who also had his conveyance recorded at Tishomingo.

December 18, 1884, Addington executed a bill of sale of the cattle back to Gatewood & Edwards to pay the original purchase money. By the terms of this instrument he was to deliver the cattle June 1, 1885, and on his failure to do so, Gatewood & Edwards were authorized to gather the cattle themselves.

June 1, 1885, Addington defaulted in delivery, and Gatewood & Edwards commenced to gather the cattle.

On the same day McLish notified Gatewood & Edwards he had a bill of sale for the cattle; that Addington had not paid him for holding them in the nation, and that the cattle were bound to him until he was paid. To this Gatewood & Edwards objected that McLish had no legal title, and that he must look to Addington for pay and not to the cattle. Gatewood & Edwards claimed the cattle under bill of sale from Addington, hereinbefore mentioned.

June 12, 1885, McLish returned to the camp and presented an order from Addington for 139 head of cattle. (Incidentally it is stated that McLish paid Addington \$200 to get this order.) Gatewood & Edwards refused to accept this order, claiming that Addington owed them. McLish then threatened to take the cattle by force, to which Gatewood & Edwards demurred. McLish, armed, then went into the herd and proceeded to take the cattle. Gatewood & Edwards protested they would not allow the cattle to be taken by force, but would submit to an officer. Finally McLish agreed to go and see an officer, but not till he had cut out the 139 head of cattle, and separated them from the rest of the herd and put them under guard.

June 17, 1885, McLish again came to camp with an order signed by Willis Dickerson, county judge of Pickens County, Chickasaw Nation, upholding McLish's title to 139 head of cattle branded, etc., and cautioned Gatewood & Edwards from further interference therewith under penalty of law.

July 13, 1885, the judge withdrew his order of June 17, on the ground that the bill of sale from Addington to Gatewood & Edwards antedated Addington's order in favor of McLish, holding that Addington had no right to give an order for stock he had already sold, and that the Chickasaw authorities had no jurisdiction.

Subsequently McLish sent 42 head of these cattle to the market in Illinois, which Gatewood & Edwards overtook and replevied before they were sold, and the balance of 97 head constitute the cattle which they claim are forcibly and fraudulently withheld from them by McLish, and of which they now ask to be placed in possession.

Gatewood & Edwards state that should they get possession of every head of cattle owned by Addington in December, 1884, they will still be losers to the extent of \$17,000.

This is the state of facts as shown by the complainants. McLish's side of the story does not appear.

It is clear, however, from the complainants' own showing, that notwithstanding the retransfer from Vaughn to Addington, and Vaughn's subsequent repudiation of the agreement for the keep of the cattle, Addington suffered the cattle to remain in the peaceable possession of McLish for nearly two years, during which time they were subsisted in the Indian Territory (whether rightfully or wrongfully it is not now necessary to determine), of which the complainants ultimately reaped the benefit under the bill of sale back to them from Addington.

Whilst, strictly speaking, the pasturage and care of the cattle may properly be a charge against Addington, it seems to me that the easiest way out of the difficulty under all the circumstances would have been for the complainants to have effected an amicable settlement with McLish, who it is to be inferred claims a lien on the cattle for their keep. Whether he has such a lien or not I am unable to say, but the remedy, if any, is of a civil nature, and there is no court having jurisdiction over civil suits between Indians and citizens of the United States.

Under the circumstances stated, I see no sufficient reason for the arbitrary interference of the Department, and the petition is therefore returned.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

EXECUTIVE DEPARTMENT, CHICKASAW NATION,
Tishomingo, Chickasaw Nation, July 23, 1885.

DEAR SIR: I herewith inclose the names of some intruders that are now in this Nation, and respectfully ask of you to have them removed beyond the limits of the Chickasaw Nation. Their names are as follows, to wit:

- (1) Perry Thompson, claims to be a citizen, but never has been recognized as such.
- (2) Jiff. Thompson, Bill Thompson and James Thompson; and Wise County, Jeff. Thompson.

The four last are charged with holding stock on the place of Perry Thompson. I would most respectfully ask of you to have them removed beyond the limits of the Chickasaw Nation. I have called upon the United States Indian agent repeatedly to have them removed, and so far he has failed to act or shown cause why they should not be removed.

Hoping that you will comply with request at your earliest convenience,

I am, sir, yours with respect,

JONAS WOLF,
Governor of the Chickasaw Nation.
R. L. BOYD,
National Secretary, Chickasaw Nation.

[SEAL.]

Hon. L. Q. C. LAMAR,
Secretary of the Interior, Washington City, D. C.

[National officers: Jonas Wolf, governor; Rob't L. Boyd, secretary; B. F. Byrd, treasurer; M. V. Cheadle, auditor; W. H. Jackson, attorney-general.]

EXECUTIVE DEPARTMENT, CHICKASAW NATION,
Tishomingo, Chickasaw Nation, June 5, 1885.

Hon. L. Q. C. LAMAR,
Secretary of Interior, Washington City, D. C.:

SIR: I herewith inclose the names of some non-citizens that have been reported to this Department as intruders. I have repeatedly asked of J. Q. Tufts, United States Indian agent, to have them removed beyond the limits of this nation, but so far he has taken no action in the matter. As such delays are dangerous, and our country overrun by such characters, and they are in such numbers that our officers are powerless to expel them, therefore I would most respectfully and earnestly ask of you to have them removed beyond the limits of this nation at once, or cause the United States Indian agent to discharge the duties of his office as he should do.

Yours with respect,

JONAS WOLF,
Governor Chickasaw Nation.
R. L. BOYD,
National Secretary, Chickasaw Nation.

- | | | |
|------------------------|-----------------------|-----------------------|
| 1. John Stewart. | 21. Stephen Thompson. | 41. Thomas Lucas. |
| 2. Jack Gray. | 22. Buch Gardenhire. | 42. Met Wasson. |
| 3. Higgins & Co. | 23. James Gray. | 43. Charlie Wasson. |
| 4. James Tussey. | 24. Nicholas Gray. | 44. Reub Bourland. |
| 5. Elihu Tussey. | 25. One Barker. | 45. M. Montrey. |
| 6. J. C. Brothers. | 26. Shipman Brothers. | 46. C. Addington. |
| 7. Frank Haynes. | 27. James Mullin. | 47. Andy Addington. |
| 8. Tives & Case. | 28. James Wise. | 48. Dave Jackson. |
| 9. Jack Gooding. | 29. George Pough. | 49. John Abraham. |
| 10. Colonel Tumer. | 30. Harry Estes. | 50. George Bourland. |
| 11. Jimmie Stron. | 31. Albert Cres. | 51. James Woody. |
| 12. Bad Stron. | 32. One Hardin. | 52. Cal Suggs. |
| 13. John Miller. | 33. One McColgin. | 53. John Washington. |
| 14. John Means. | 34. William Ward. | 54. Jack McGeehee. |
| 15. Hugh Barter. | 35. Arthur James. | 55. Arch McGeehee. |
| 16. James Martin. | 36. Whit Hyden. | 56. Mr. Cook. |
| 17. James Little. | 37. Wat Halford. | 57. J. D. Steward. |
| 18. One Elison. | 38. John Covey. | 58. John W. Wilson. |
| 19. Thomas Sappington. | 39. Thomas Wilson. | 59. James Thomas. |
| 20. Thomas Couch. | 40. John McDoney. | 60. Old Man Blaylock. |

The above-named parties are in Pickens County, Chickasaw Nation.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, September 25, 1885.

SIR: I transmit herewith copy of a list, comprising the names of sixty persons, received by Department reference, with letter from Governor James Wolf, of the Chickasaw Nation, dated June 5, 1885, requesting the removal of these persons as intruders.

I also inclose copy of a letter from Governor Wolf, dated July 23, 1885, requesting the removal of five other persons.

You will notify each of the persons named to appear at such time and place as you may deem convenient, and show cause why they should not be removed from the Nation.

You will also notify the governor of the time and place of hearing.

You will receive such competent evidence as may be presented by either side, and forward the same to this office, with your conclusions and recommendations as to each case.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., September 3, 1885.

SIR: Referring to my letter dated August 14, 1885, I have the honor to inclose herewith letter of Frank Murray, in reply to statement of Rollins.

These parties requested these statements be sent to you when you can decide the matter on these statements, or send them to this office for investigation.

Very respectfully, your obedient servant,

JOHN Q. TUFTS,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October 5, 1885.

SIR: In inclose herewith sundry papers received from Agent Tufts on the 17th of August and 7th of September last, as follows:

Petition of R. S. Rollins, a citizen of the United States residing at Gainesville, Tex., with exhibits thereto attached, asking partition and removal from the Chickasaw

Nation of stock owned by him in connection with Frank Murray, a citizen of the Chickasaw Nation, and one J. E. Emberson, to the extent of his (Rollins's interest) one-half therein.

Answer of Frank Murray thereto with affidavits attached.

The matter appears to be of some importance and should be properly investigated by the agent prior to any definite action by the Department.

The papers are accordingly transmitted to you for such investigation and report.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 6, 1885.

SIR: I am in receipt of your communication, dated February 19, 1885, in which you request answers to the following questions:

(1) Has a Choctaw Indian, by blood or otherwise, yet a citizen of the United States, and at the time a resident of the State, a right to hold stock of any kind for grazing purposes within the limits of the nation?

You state that there is a certain Choctaw Indian by blood who was raised in the States, over whom your authorities have no jurisdiction, and who refuses to comply with your permit laws, and ask what manner of procedure your authorities shall pursue in order to check such a person from intruding by taking advantage of your laws under the circumstances mentioned.

(2) Suppose a Choctaw citizen, by blood or otherwise, commits the crime of murder or other crime against a fellow-citizen within the limits of the Choctaw Nation, and takes refuge in an adjoining State, how should the Choctaw authorities proceed to secure such a refugee from justice and bring him before the proper tribunal?

(3) A Choctaw citizen having been tried, convicted, and fined in the Choctaw courts for introducing whisky, has the United States court a right to take up and try the same man for the same offense?

In reply to your first inquiry I have to state, that I do not see how a Choctaw Indian by blood can be a citizen of the United States, but such person residing in your Nation would be subject to the laws and should be punished for a violation thereof in the same manner as any other citizen of the Nation, unless you deny his right to citizenship, in which case his right should be determined in the same manner as other cases of disputed citizenship.

To your second question, I reply that requisition should be made on the governor of the State to which the criminal has fled for his return to your Nation. If the governor of such State declines to comply with your requisition, I know of no way to compel the return of such fugitive criminal.

In reply to your third question, I have to say that a person may be tried by the United States courts for the same act for which he has been punished by your courts.

If a citizen of your Nation introduces whisky into your country he can be punished by your courts only, under your laws against which the act is an offense, but the same act is an offense against the laws of the United States, and for this offense he may be punished by its laws, even if he has been punished for the offense against your laws.

This principle was affirmed in the case of the United States *vs.* Barnhart, in the United States district court of Oregon. (Federal Rep., vol. 22, p. 285.)

Very respectfully,

H. PRICE,
Commissioner.

ED. MCCURTAIN, Esq.,
Principal Chief Choctaw Nation, Sans Bois, Ind. T.

EXECUTIVE OFFICE, CHOCTAW NATION,
Sans Bois, Ind. T., March 11, 1885.

SIR: I am just in receipt of your favor of March 6, in reply to mine of an earlier date requesting answers to certain questions therein stated. Please accept my thanks for the promptness in which you acknowledged my communication.

From your answer to my first question, I am of the opinion that I did not express myself clearly in regard to the information I desired you to give me. I shall therefore

take the liberty to state the question again, and more fully: There is a certain Choctaw Indian by blood, Eli Mitchell by name, who resides in Fort Smith, Ark., and exercises all the privileges of a citizen of the United States, and at the same time owns land and cattle in this Nation, a privilege allowed only to citizens of this Nation. This Eli Mitchell, the offspring of a white man and Choctaw woman, was taken from the Nation when about seven years old by his father, and has since lived in Fort Smith. He votes at the State and national elections and also sits on the jury, while on the other hand he takes no part in the politics of this country (Choctaw Nation), and never comes within the limits of the Nation. Yet he rents his land here to non-citizens, who have charge of his cattle. Now it is generally believed that the cattle are not his, but are the property of his renters, who hold them in Eli Mitchell's name. This is a flagrant violation of our laws. Our desire is to compel him to abide by our laws. If he is using his name to shield non-citizens who are violating the stock law of this Nation, he should be tried for the offense in our courts. But as long as he claims to be a citizen of the United States, our courts have no jurisdiction; hence I proposed the question: "Can a Choctaw Indian, by blood or otherwise, yet a citizen of the United States, and at the time a resident of the State, hold stock of any kind for grazing purposes within the limits of the Nation?"

We desire Eli Mitchell to recognize the authority of our courts or else forfeit his right as a citizen. Please favor this communication with your early consideration, and oblige,

Very respectfully,

EDMUND MCCURTAIN,
Principal Chief, Choctaw Nation.

Hon. H. PRICE,
United States Indian Commissioner.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 13, 1885.

SIR: I am in receipt of your communication, dated March 11, 1885, with reference to the case of Eli Mitchell and the former correspondence thereon.

From your last letter it appears that Eli Mitchell is a half-breed Choctaw, his father being a white man and his mother a Choctaw; that when about seven years old he was removed from the Choctaw Nation by his father; that he has since lived in Fort Smith; that he claims and exercises all the rights of a citizen of the State of Arkansas and of the United States, and that he takes no part in the affairs of our Nation, "yet he rents his land here to non-citizens who have charge of his cattle."

You repeat your former question: "Can a Choctaw Indian, by blood or otherwise, yet a citizen of the United States, and at the time a resident of the State, hold stock of any kind for grazing purposes within the limits of the Choctaw Nation?"

Under the statement of facts presented the question as to Mr. Mitchell's status as a citizen of the United States appears to be immaterial.

The Choctaw people hold their lands in common, and if Mitchell is a citizen and member of that Nation (and it is not denied that he is such by blood) he has an equal undivided interest in the common property with the other members of the Nation.

The seventh article of the treaty of 1855 with the Choctaws and Chickasaws provides that "so far as may be compatible with the Constitution of the United States and the laws made in pursuance therewith, regulating trade and intercourse with the Indian tribes, the Choctaws and Chickasaws shall be secured in the unrestricted right of self-government and full jurisdiction over person and property within their respective limits." * * *

The enjoyment of such property rights and privileges as belong in common to the Choctaw people is, therefore, subject to such laws and regulations as may be enacted and prescribed by the properly constituted tribunals of the nation under the article referred to.

I will add, in conclusion, that I do not think that a Choctaw citizen can be wholly deprived of common property rights attaching to him as such, yet I do think such rights and privileges should be limited to and enjoyed by such citizens of the nation as contribute to its support, and who are amenable to its laws.

One class of persons should not be allowed to reap the benefits attaching to citizenship without being required to bear the burdens resulting therefrom, and without being subject to the jurisdiction of the nation.

Very respectfully,

JNO. D. C. ATKINS,
Commissioner.

Hon. EDMUND MCCURTAIN,
Principal Chief Choctaw Nation, Sans Bois, Ind. T.

EXECUTIVE OFFICE, CHOCTAW NATION,
Sans Bois, Ind. T., June 19, 1885.

DEAR SIR: I take the liberty of communicating with you in regard to matters of vital importance to our people and which I trust you will favor with your early and favorable attention. There have been in this nation a great many persons who claim to be citizens, but whose rights were not recognized. These parties were all notified that they must appear before the general council which convened at Tushka Homnia, in this nation, in October, 1884.

At that time the most of these cases were examined. The result was that some of the claims were recognized, but a large majority of them were rejected. Those who were rejected were allowed to appeal to the Indian agent for a new hearing. This was the understanding between our government and the Department at Washington. It seems that most of the rejected claimants took advantage of the opportunity offered them for appeal and filed the papers at the office of the agency, instead of summoning witnesses and trying these cases. The agent merely examined their papers and forwarded them to the Department at Washington.

They were returned to him with the instructions to investigate and act upon these cases. It was generally supposed that Muscogee would be the place designated in which these claimants to citizenship were to be examined. But contrary to expectation and much to the disadvantage of this nation, Fort Smith was selected as the place in which this court of appeals was to hold. Fort Smith is not easily accessible to either parties interested in these claims, and is, in my opinion, the most inconvenient place that could have been chosen. Muscogee would have been more suitable and in event it was impracticable to hold the court there, we deem it but just that some point in this nation should have been selected. As the nation has much at stake, it is but natural that some deference should be paid to our wishes in the matter. I would therefore respectfully ask that you use your influence in having the agent examine these cases at McAlester, in this nation. This place is more centrally located, and is convenient to all parties concerned. If the court does not meet at Muscogee there is no other point so generally acceptable as McAlester. The agent has not yet notified us at what time he will be in readiness to hear these appeal cases, notwithstanding the attorneys appointed to protect the nation's interest have long since informed the agent that they are awaiting his orders. These delays are a source of serious inconvenience to this nation. These claimants, so long as their claims are not adjusted, disdain to recognize our authority and refuse to abide by our laws, while on the other hand the United States court will not claim jurisdiction over them so long as they claim citizenship in this nation. Thus forced from the restraint of the law they cause serious disturbance by carrying pistols, drinking whisky, and in other ways too numerous to mention. In view of these facts I would request that you notify the agent to appoint an early date in which to investigate these cases, so that the country may no longer be subjected to such disagreeable annoyances.

Trusting that you will give the foregoing your earliest attention in earnest consideration, I have the pleasure to be

Yours, very respectfully,

EDMUND MCCURTAIN,
Principal Chief Choctaw Nation.

Hon. L. Q. C. LAMAR,
Secretary of the Interior, Washington City, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 10, 1885.

SIR: I inclose herewith for your information a copy of a communication from Governor McCurtain, dated June 1st, 1885, received by Department reference, relative to the hearing of appeals in cases of disputed Choctaw citizenship.

These cases should be heard as promptly as possible and at such place or places as may be most accessible and convenient for all parties concerned.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

JOHN Q. TUFTS, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 10, 1885.

SIR: I am in receipt, by Department reference, of your communication, dated June 19, 1885, relative to appeals in cases of disputed citizenship.

A copy of your letter has been referred to Agent Tufts, with instructions to hear such cases as promptly as possible and at such place or places as may be most accessible and convenient to all parties concerned.

In justification of the delay in these cases it must be remembered that Agent Tufts can find but little time for such matters, owing to the pressure of his regular duties.

It is hoped, however, that these cases may be disposed of without unreasonable delay.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

Hon. EDMUND MCCURTAIN,
Principal Chief Choctaw Nation, Sans Bois, Ind. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, June 18, 1885.

SIR: Referring to your report dated June 8, 1885, upon the complaint of A. D. Chase, a resident of the Chickasaw Nation, and S. D. Cook in which you recommend the removal of the latter as an intruder. I have to state that Cook should be allowed to make some disposition of his improvements, if possible, he having made them under the belief that he was entitled to Chickasaw rights.

If Chase's claim to the property is valid and the place has been enhanced in value by the improvements made upon it by Cook, the former should, I think, be required to compensate the latter in some degree for the same.

Subject to this qualification your recommendation is approved.

Very respectfully,

JNO. D. C. ATKINS,
Commissioner.

JOHN Q. TUFTS, Esq.,
United States Indian Agent, Union Agency, Muskogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muskogee, July 8, 1885.

SIR: I have the honor to transmit herewith papers of J. H. Godfrey for examination and decision, as requested by him.

Very respectfully, your obedient servant,

JOHN Q. TUFTS,
United States Indian Agent.

COLBERT STATION, CHICKASAW NATION, IND. T.,
June 1, 1885.

HONORED AND RESPECTED SIR: By your permission I would ask that you give me your official decision in regard to the status of white persons who have become citizens of the Chickasaw Nation by marriage, according to the general provision of the constitution of the Chickasaw Nation (section 7), which reads as follows:

"SEC. 7. All persons, other than Chickasaws, who have become citizens of this nation by marriage or adoption, and have been confirmed in all their rights as such by former conventions, and all such persons as aforesaid who have become citizens by adoption by the legislature, or by intermarriage with the Chickasaw since the adoption of the constitution of August, A. D. 1856, shall be entitled to all the rights, privileges and immunities of native citizens; all those who may hereafter become citizens either by marriage or adoption, shall be entitled to all the privileges of native-born citizens without being eligible to the office of governor."

Now, in order that I may be fully understood, I will submit the following questions:

Question 1. Can a blood citizen of the Chickasaw tribe of Indians delegate the rights of citizenship to a white person by being joined in the holy rights of matrimony? Your answer will be "Yes" according to section 7, general provisions of the constitution of the Chickasaw Nation. (Pardon my presumption in asking you a question and answering it myself, as I have question 1, but the following question you will readily see is the question I am working after:)

Question 2. Has not a white person so citizenized the same right, according to section 7, general provisions of the constitution of the Chickasaw Nation, in case of the death of the blood citizen, husband or wife, as the case may be, to delegate the rights of citizenship on other persons other than citizens of the Chickasaw Nation by being joined in marriage? In order that the matter may be thoroughly understood I will present the case of one August Herman. You will see by certified copy of marriage license and certificate of marriage (marked A. A.) that one Wm. Kemp, a citizen of the Chickasaw Nation, and Miss Mary Delashunett, a citizen of the United States, were united in the holy bonds of matrimony on the 21st day of March, A. D. 1877, by C. B. Kingsbery, county and probate judge of Panola County, Chickasaw Nation. Also see copy of marriage license and certificate of marriage (marked B. B.) that one August Herman, a citizen of the United States, and Mrs. Mary Kemp, wife of Wm. Kemp, deceased, were joined in the holy bonds of matrimony June 22, 1879, by H. F. Murray, county and probate judge of Panatay, Chickasaw Nation.

According to our treaty and laws the Chickasaw and Choctaw citizens have the right to domicile in either Choctaw or Chickasaw Nation as they choose. You will see by permits Nos. 1, 2, and 3, that the aforesaid August Herman is living in the Choctaw Nation and recognized as a Choctaw citizen according to his domicile, as our laws direct, being allowed the privilege of employing white labor to till and cultivate his farm.

Your decision on question 2 will be looked for with interest; any copy of laws, constitution, or treaty that you may wish will be furnished you by our national secretary, Hon. Rob't. L. Boyd, Tishomingo, Chickasaw Nation, Ind. T.

A decision from you will be looked for at your earliest convenience.

Respectfully, etc.,

J. H. GODFREY.

HON. L. Q. C. LAMAR,
Secretary of the Interior, Washington, D. C.

P. S.—See article 38, treaty between the United States of America and the Choctaw and Chickasaw Indians, concluded April 28, 1866.

EXECUTIVE OFFICE, CHOCTAW NATION,
San Bois, Ind. T., July 7, 1885.

DEAR SIR: I take the liberty of communicating with you in regard to matters of vital importance to our people, and which I trust you will favor with your early and favorable attention.

There have been in this nation a great many persons who claimed to be citizens, but whose rights were not recognized. These parties were all notified that they must appear before the general council which convened at Tushka Homma, in this nation, in October 1884. At that time the most of these cases were examined; the result was, that some of the claims were recognized, but a large majority of them were rejected. Those who were rejected were allowed to appeal to the Indian agent for a new hearing. This was the understanding between our government and the Department at Washington. It seems that most of the rejected claimants took advantage of the opportunity offered them for appeal, and filed their papers at the office of the agency. Instead of summoning witnesses and trying these cases, the agent merely examined their papers and forwarded them to the Department at Washington. They were returned to the agent, with instructions to investigate and act upon these cases. It was generally supposed that Muskogee would be the place designated in which these claimants to citizenship were to be examined. But contrary to the expectations, and much to the disadvantage of the nation, the agent selected Fort Smith, Ark., as the place in which this court of appeals was to hold. Fort Smith is not easily accessible to either of the parties interested in these claims, and is in my opinion the most inconvenient place the agent could have selected; Muskogee would have been more suitable, and in advent it was impracticable to the court there. We deem it but just that some point in this nation should have been selected. As the nation has much at stake, it is but natural that some reference should be paid to our wishes in the matter. I would therefore respectfully ask that you use your influence in having the agent to examine these cases at McAlester, in this nation. This place is more centrally located and is convenient to all parties concerned. If the court does not meet at Muskogee, there is no other point so generally acceptable as McAlester. The agent has not as yet notified us at what time he will be in readiness to hear those appealed cases, notwithstanding the attorneys appointed to represent the nation's interests have long since informed the agent that they are awaiting his orders. These delays are a source of serious inconvenience to this nation.

These claimants, so long as their claims are not adjusted, disdain to recognize our authority and refuse to abide by our laws, while on the other hand the United States courts will not claim jurisdiction over them so long as they claim citizenship in this nation.

Thus freed from the restraints of the law, they cause serious disturbances by carrying pistols, drinking whisky, and in other ways too numerous to mention.

In view of these facts I would request that you notify the agent to appoint an early date in which to investigate these cases, so that the country may be no longer subject to such disagreeable annoyances.

Trusting that you will give the foregoing your earliest attention and consideration, I have the honor to be, yours, very respectfully,

EDMUND MCCURTAIN,
Principal Chief, Choctaw Nation.

Hon. JNO. D. C. ATKINS,
Commissioner Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 20, 1885.

SIR: I am in receipt of your communication, dated July 8, 1885, transmitting the papers of J. H. Godfrey "for examination and decision as requested by him."

Among the papers transmitted is a letter from Mr. Godfrey, addressed to the Secretary of the Interior, in which he cites the case of one August Herman, a citizen of the United States, whose wife is also a citizen of the United States, but who was the widow of a citizen of the Chickasaw Nation, and asks, in effect, if a white person, citizenized by intermarriage with a native Chickasaw, can not confer the right of citizenship upon a non-citizen by a subsequent marriage with such non-citizen.

Mr. Godfrey also states that Mr. Herman is living in the Choctaw Nation, and is recognized as a Choctaw citizen, according to his domicile (a Chickasaw citizen domiciled in the Choctaw Nation), being allowed to hire laborers.

Neither Mr. Godfrey's interest in this case nor his motive in making the inquiry is shown in the papers.

A reference, however, to section 3 of the Chickasaw intermarriage act, approved October 19, 1876 (Laws of the Chickasaw Nation, page 153), affords a plain answer to the question.

That section provides as follows: "That no marriage heretofore solemnized, or which may be hereafter solemnized, between a citizen of the United States and a member of the Chickasaw Nation shall enable such citizen of the United States to confer any right or privilege whatever in this nation by again marrying another citizen of the United States, or upon such other citizens of the United States or their issue."

In other words, intermarriage by a citizen of the United States with a native Chickasaw only will confer Chickasaw citizenship upon such citizens of the United States.

I return all the papers submitted by you except Mr. Godfrey's letter to the Secretary.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

JOHN Q. TUFTS, Esq.,
United States Indian Agent, Union Agency, Muskogee, Ind. T.

EXECUTIVE DEPARTMENT CHICKASAW NATION,
Tishomingo, Chickasaw Nation, August 11, 1885.

HON. SIR: Inclosed you will find a letter from Mr. M. T. Johnson, of Silver City, Ind., T., asking help from the executive department of this Nation, and as it is a case of non-citizens violating the laws of the Nation, and beyond the jurisdiction of the authorities of this Nation, I respectfully refer the case to your honor and ask that you take immediate steps to cause their removal.

Very respectfully,

[SEAL.]

JONAS WOLF,
Governor Chickasaw Nation.

Attest:

R. L. BOYD,
National Secretary Chickasaw Nation.

Hon. COMMISSIONER OF INDIAN AFFAIRS,
Washington City, D. C.

SILVER CITY, Ind. T., July 28, 1885.

DEAR SIR: I am once more constrained to call your attention to the non-citizens and outlaws overrunning and killing people in our section.

Two weeks ago I had one of my men, a Choctaw, Adam Ward, killed by them, and had bullets to whiz very close to me the same time.

They are here still in camp, fifteen or twenty strong, and defy arrest, and have made some desperate threats, and say no Indian can run cattle while they are about. This is certainly stepping too far, and leaves matters in a very unpleasant and critical condition. Therefore I once more beseech of you as a law-abiding citizen, and in behalf of my fellowmen, to send up a militia or take what steps you may to have them removed. All the assistance required can be had at Reno, and what information necessarily desired I can give same. This seems to me the proper and only legitimate way to dispose of such characters. Sincerely hope you will carefully consider and take immediate action in the matter, and hoping to receive an early reply, I remain,

Yours, very respectfully,

M. T. JOHNSON.

Hon. GEORGE WOLF,
Tishomingo, Ind. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, August 19, 1885.

SIR: I have the honor to inclose herewith a copy of a letter, dated the 11th instant (with copy inclosure therein referred to), from Hon. Jonas Wolf, governor of the Chickasaw Nation, asking the aid of the Government in the removal of a gang of outlaws, some fifteen or twenty strong, who are encamped near Silver City, Ind. T., overrunning the country and killing Indians—notably one Cedam Ward, a Choctaw citizen.

As the matter is one affecting citizens of the United States, and without the jurisdiction of the Chickasaw authorities, probably also beyond the control of the agency police, I respectfully recommend that the communication be referred to the Secretary of War, with the request that he cause the necessary orders to issue to the commanding officer of the nearest military post for the prompt removal of the offenders from the country to the end that the treaty obligations of the Government may be scrupulously maintained and the Chickasaws protected from "aggression by white persons not subject to their jurisdiction and laws." (Treaty of June 22, 1855, art. 14, 11 Stat., 614.)

It is presumed that the governor of the Chickasaw Nation, Tishomingo, Chickasaw Nation, or the writer to the inclosure to the governor's letter, M. T. Johnson, of Silver City, Ind. T., will be able to point out the location of the gang.

Very respectfully, your obedient servant,

A. B. UPSHAW,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, June 30, 1890.

SIR: I have considered the report of Robert L. Owen, counsel for the Choctaw Nation, relative to the Choctaw citizenship case of Glenn, Tucker, and others, against the Choctaw Nation, and your reply thereto dated 16th of May last, in connection with an opinion of the honorable Assistant Attorney-General for the Department of the Interior in the matter dated 24th instant.

Concurring as I do in the opinion herewith transmitted, you are advised that the claims of the persons named in the appeal to citizenship are rejected, and you will take the proper means to have them ejected from the territory of the Choctaws, due regard being had to their present crops and all humane considerations; not, however, to postpone the result beyond November 1 next.

Very respectfully,

JOHN W. NOBLE.
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL,
Washington, D. C., June 24, 1890.

SIR: I am in receipt of a letter from the Commissioner of Indian Affairs, dated May 16, 1890, and accompanying papers, referred to me by Assistant Secretary Chandler, "for an expression of opinion upon the questions raised by the Commissioner of Indian Affairs."

In order to consider intelligently the two questions asked by the Commissioner, it is necessary to outline some of the facts as they are gathered from the somewhat imperfect record sent me.

The Choctaw Nation, considering themselves much imposed upon by intruders, who, under a claim of right to citizenship therein, occupied considerable portions of their lands, enjoying the usufruct thereof, enacted a law, through their national council, which was approved October 21, 1882, and which they believed would bring relief in the premises.

The material parts of this law are found in sections 2 and 3, as here quoted:

"SEC. 2. That the Secretary of the Interior is hereby requested to order the United States Indian agent to hear and determine all applications made to him to establish claims of citizenship in the Choctaw Nation, and the decision of such agent shall be final: *Provided, only*, That all such applications shall have been made to the proper Choctaw tribunal, and by it refused, the agent notifying the principal chief of the time and place of such rehearing.

"SEC. 3. That the Secretary of the Interior be further requested to instruct the United States Indian agent to order all non-citizens now in the nation to take immediate steps to prove their rights as citizens, and if they refuse or neglect, remove them beyond the limits of the Choctaw Nation." (Report of Com. Ind. Affairs, 1884, p. XLIII.)

A copy of this act was sent by the Commissioner to this Department, accompanied by some suggestions in relation to the enforcement of the same. These suggestions were approved by Secretary Teller on March 15, 1884, with the addition that "the decision of the agent should be subject to revision by the Department."

In pursuance of the approval of the Secretary, on March 22, 1884, the United States Indian agent was instructed by the Commissioner of Indian Affairs to "notify all disputed claimants to citizenship in the Choctaw Nation whose names are furnished you by the Choctaw authorities to appear at the next session of the proper tribunal and submit their claims for adjudication as provided by the Choctaw laws; that, failing to do so, they will be deemed intruders and removed from the Territory; and that any party feeling aggrieved by the decision of the Choctaw tribunal will be allowed thirty days in which to appeal to you, at the expiration of that time to be deemed an intruder if no appeal be taken.

"This notice you will serve upon the parties, either by causing your police to deliver a written or printed copy, with your signature attached, to the person interested, or to leave the same at the usual place of abode of such person at least sixty days prior to the first day of the session of the council before which he is summoned to appear, or by sending the same through the mails, so that sixty days may elapse between the receipt of the notice and the commencement of said session.

"You will hear all cases of appeal from the decision of the Choctaw authorities, giving proper notice to the principal chief of the time and place of hearing, receiving and considering such proper evidence, without distinction as to the race of witnesses, as may be presented. You will allow the claimants to be represented by counsel, if they so desire, as well as the nation.

"You will hear all cases of appeal as promptly as possible, and submit the evidence in each case, with your finding thereon, to this office for final adjudication." (*Ibid.*)

It does not appear that the Choctaws ever formally accepted the suggestions and modifications of Secretary Teller, but it is stated in the letter of the Commissioner of May 16, 1890 (*supra*) that they have been acquiesced in and proceedings had thereunder recognized as valid by the nation. To the same effect is a letter from Mr. Owen, attorney for the Choctaw Nation, dated April 16, 1890.

In pursuance of the instructions, issued as above, to the Indian agent, he caused to be notified a number of parties, whose names were furnished him, to submit their claims of citizenship to the Choctaw council. Among the parties who thus presented their names to the council were John C. Glenn, Tucker, and others. On November 6, 1884, their claims were rejected. From this rejection they appealed to the United States Indian agent, on December 2, 1884. Inasmuch as they claimed from a common ancestor, one Abigail Rogers, said appeals were consolidated. A good deal of testimony was taken, mostly by the appellants, and in August, 1887, Robert L. Owen, the United States Indian agent, gave judgment sustaining the decision of the Choctaw council. The papers were transmitted to the Commissioner of Indian Affairs, who on October 4, 1887, sent them to this Department with an approval of the judg-

ment of Agent Owen. The papers, however, were informally withdrawn, and on March 5, 1889, the Commissioner reversed his former action and sustained the appeal of Glenn, as follows:

"Referring to the case of the Choctaw Nation *vs.* Glenn, Tucker, *et al.*, claimants to Choctaw citizenship, appealed by the defendants to the United States Indian agent, and transmitted among others to this office, with your letter of August (September) 21, 1887, I have to say, that in view of the incompleteness of the record, and apparent want of regularity in the proceedings of the council, I am unable to determine that any regular or legal proceedings have been had in this case, and I must therefore, upon this record, sustain the appeal from the judgment of the agent, which sustains the action of the Choctaw Nation."

On April 11, 1890, Agent Bennett, in a communication to the Indian Office, inquires whether said letter is to be construed so as "to establish the citizenship of these claimants; or is the case *in statu quo* until 'regular proceedings have been held?'" He states that the Choctaw Nation declare Glenn and his associates to be intruders, and requests their removal; that in response to a notice to remove, served upon said parties, they reply that they are citizens of the Nation, citing the letter as authority.

On April 16, 1890, the attorney of the Choctaws asked that the Commissioner be required to send the record up for your examination "to the end that justice may be done the Choctaw people." This application was sent to the Commissioner, who, on May 15, 1890, transmitted the record, accompanied by a letter wherein he asks two questions:

(1) As to whether the action taken by the Commissioner of Indian Affairs in his letter of March 5, 1889, to the United States Indian agent, was with proper authority and operates as remanding the case for proceedings *de novo* before the Choctaw authorities; and if not,

(2) As to whether upon the record presented, which was discussed in Office report of October 4, 1887, before referred to, the claimants, Glenn, Tucker *et al.*, have established their rights to citizenship in the Choctaw Nation.

And these are referred to me for answer, as before stated.

In view of the quoted legislation of the Choctaw council, authorizing an appeal from its action to the United States agent, and the acquiescence, as stated, in the added condition, that the action of the agent should be subject to the revision of the department, there would seem to be no room to question your right to pass upon the claim of these parties to citizenship in the Choctaw Nation. But, independent of the authority thus conferred and recognized, the Indians are really seeking to have the United States remove Glenn and his associates from the Nation as intruders. On such an application, it becomes the United States to determine for itself, under the general laws of the land, independent of any Indian legislation, whether it be proper to make such removal. (16 Ops. Atty. Gen., 404.) And in a case where the parties sought to be removed set up a claim or right to Indian citizenship, that question should be examined before the Government comes to a conclusion in the premises.

The case being one thus clearly within the jurisdiction of this Department, it was proper for the Commissioner, who is specially charged with the supervision of Indian affairs to have expressed his views upon the report of the United States agent, in transmitting the same to this Department. The Commissioner's duty was discharged when he did this. The subsequent informal withdrawal of the papers from the files of this Department and his reversal of the action of the Indian agent was not only irregular, but was without proper lawful authority, if for no other reason, because the matter had then passed beyond the Commissioner's jurisdiction.

It is therefore my opinion that this action of Commissioner Oberly should be treated as a nullity, and the case determined on its merits, just as it stood in this Department before his irregular proceeding. In this view of the case it is immaterial whether Glenn and his associates were technically "petitioners" or not, or whether the burden of proof is on them or the Indian Nation.

Were it necessary to discuss these questions it would abundantly appear that said parties regarded themselves as, and were, applicants to the Choctaw council for citizenship in that Nation, and of course were bound to support their claim by testimony. Confessedly they were not recognized by the authorities as citizens of the Nation. Being in danger of removal therefrom as intruders, they sought from the Indian authorities that recognition as citizens which they had not theretofore received, and which would be a protection to them against threatened removal. To hold, under these circumstances, they were not "petitioners" or applicants before the council for the franchise of citizenship, and that the burden of proof was upon the Nation to prove their non-citizenship, as contended by their attorney, would not be logical.

Nor is there such absolute "incompleteness of the record and apparent want of regularity in the proceedings of the council" as in my opinion would justify the setting aside of the judgments and proceedings therein, as was attempted to be done by Commissioner Oberly. The record is by no means as perfect or complete as I would like to see it. But it shows that Glenn and some of his associates were notified by

the United States Indian agent in June, 1884, in pursuance to instructions; that in October, 1884, the testimony of John C. Glenn, and others, in behalf of their claim of citizenship was filed with the officers of the Nation; that on October 23, 1884, a petition, sworn to by said Glenn and addressed to the council, was filed with the national secretary, wherein that body was asked to grant unto him and his family "all the rights and privileges of citizenship in the Choctaw Nation;" that on report of a committee of the council, on November 6, 1884, the petition was denied, and the claim rejected by that body; that on December 2, 1884, certain of the parties appealed to the United States Indian agent from the action of the council; that in October, 1886, a paper was filed in the office of the Indian agent, wherein it was agreed that the cases of all of those who asserted descent from Abigail Rogers should be consolidated, and considered as one case. And the record further shows that additional testimony was taken and submitted in behalf of claimants to the United States Indian agent, upon which, and that already in the case, he rendered judgment adverse to the petitioners. It does not seem to me that this record was so incomplete it could not be acted upon, but on the contrary, I think, there ought to have been no difficulty in forming an intelligent judgment thereon.

And this brings me to the second question, as to whether upon the record Glenn and his associates have established their rights to citizenship in the Choctaw Nation. To answer this question requires a further examination of the testimony.

All the parties in question claim their descent from one Abigail Rogers; and it is abundantly shown by the competent testimony of Mary Barnes, Frances Barnes, Edward Tucker, and other members of the family, that it was the general repute in the family that Abigail Rogers was the child of a white man named Rogers and a Choctaw woman, name unknown. That upon the birth of Abigail, about 1760, she was taken by her father to the Cherokee Nation, where she remained until she grew up, when she married a white man named John Glenn, who subsequently removed with her to Mississippi, where they lived part of the time with the Choctaws and part of the time with the Chickasaws. She had nine children by Glenn. During the time she lived with the Choctaws in Mississippi, though recognized and considered as an Indian, the great preponderance of the testimony shows that she never received any money or portion of the annuities belonging to the Choctaws, but worked land as her own. When the Choctaws were removed west of the Mississippi River, some time after 1830, Abigail, her children, and grandchildren then born, remained in Mississippi. A few years later, and "after the falling of the stars," which occurred about 1833 or 1834, she left Mississippi, for the purpose, it is stated, of joining the Choctaws in their new location in the present Indian Territory. She first went to Tennessee, thence to Missouri, where she had a son living; thence to Carroll county, Arkansas, where she died, about 1840. Her descendants have been scattered around, some in Tennessee, some in Mississippi, in Missouri, Texas, and Arkansas, but a number of them, principally from Arkansas, have gathered into the Choctaw Nation, where they hold possession of lands, claiming a right to do so by virtue of their Indian descent. With the exception of intermarriages among themselves, and one or two other instances, they have always married full-blooded whites, and now do not claim to have any other Indian blood in their veins except that inherited from Abigail Rogers. The names of about 175 of these descendants are given in the record, and these by no means include all.

It is stated by Mary Barnes, the granddaughter of Abigail, who came from Mississippi with her, and was with her when she died, that "my people voted and acted as citizens of Arkansas while there," that is, before they came into the Choctaw Nation some fifteen years ago.

It is to be recollected that we are not passing upon the case of Abigail Rogers, the half-breed Choctaw woman. She has been dead fifty years. But it is the case of her descendants of the third, fourth, and fifth generation, possessing one-sixteenth, one thirty-second, or one sixty-fourth part of Indian blood, who are now asserting a right to Indian citizenship, because of their Indian blood, and complain that their claim has been improperly rejected by the nation.

I find no statute which may guide me to a conclusion in the present case, and no decision which defines who are Indians and who are entitled to citizenship among the tribes of that peculiar people. Among the numerous treaties made with the Choctaws there are provisions securing to them their lands in fee, and the right to regulate their domestic affairs, provisions authorizing them to become citizens of the United States, under certain circumstances, and to protect them from the intrusion of the whites into their reservations; but none which define with any clearness who are members, or who shall be entitled to membership in their tribe or nation, further than may be found in section 38 of the treaty proclaimed July 10, 1866 (14 Stat., 772-779), which provides that: "Every white person who, having married a Choctaw * * *, resides in the nation, or who has been adopted by the legislative authorities, is to be deemed a member of said nation," and is to be subject to the laws thereof.

This provision would seem to be sufficiently explicit to cover the class therein described, but hardly covers the present case, as Glenn and his associates claim a *right* to citizenship because of their Indian blood; or, plainly, because they are Indians. But if they are white people, who have not married Choctaws, their residence within the nation for several years past will not protect them from ejectment unless they have been adopted by the legislative authority. There is no pretense of such marriage or such adoption, and I presume they necessarily deny that they are white people, as they can not be both Indians and white people.

On the facts of the case, not having tribal relations with the Choctaws, I can not see on what ground it can be held that these people are Indians, unless we are prepared to concede that the slightest amount of Indian blood necessarily characterizes the party, in fact and law, as an Indian. This I am not prepared to concede, nor is it necessary in denying it to say at what point the line of distinction between the two races should be drawn, though in the absence of other considerations, it would seem reasonable that the predominance of blood should determine the race. (*McKay vs. Campbell*, 2 Sawyer, 114-133.) But this is an ethnological question, about which opinions differ. (Re Camille, 6 Sawyer, 541; 7 Ops. Atty. Gen., 746-750.)

But, independent of this consideration, there is no doubt that the ancestor of all the claimants, John Glenn, who married the half-breed Choctaw woman, Abigail Rogers, was a full-blooded white man. This being so, in the absence of any special reason to the contrary, I think, the common law rule should prevail and the condition of the child follow that of the father. As there was no further intermixture of Indian blood, his descendants must therefore be white people. (*McKay vs. Campbell*, *supra*; *Ex parte Reynolds*, 5 Dillon, 394-403.) In the case of the United States *vs.* Sanders (Hempstead's Report, 433), it was held that the child of an Indian woman should follow the condition of the mother. But I think the cases before cited are based upon the better reason, inasmuch as the civil law rule "*partus sequitur ventrem*" is not applicable to Indians, they being free people and not slaves. I am well aware that in *Elk vs. Wilkins*, (112 U. S., 4-10-) the Supreme Court say that certain passages cited by counsel from the Reynolds case *supra* were *obiter dicta*. The passages thus condemned are not given, but it is evident from the tenor of the opinion of the Supreme Court that they were those, wherein it was intimated, page 347, that Indians by scattering themselves among the citizens of the United States were merged in the mass thereof and became citizens.

But, even if *obiter dicta*, and therefore not to be accepted as an authoritative decision of the question, the reasoning of the learned judge in the Reynolds' case, *supra*, commands the approbation of my judgment, as it is based upon sound legal principles, even though it may not have been necessary for him to decide the question in that particular case.

Adopting this rule, and under all the circumstances of this case, I have no hesitation in giving it as my opinion that the claim of said parties to Indian citizenship should be rejected.

Very respectfully,

GEO. H. SHIELDS,
Assistant Attorney-General.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 3, 1890.

SIR: Referring to previous correspondence of this office relating to the Choctaw citizenship case of Glenn, Tucker, and others against the Choctaw Nation, Indian Territory, I have to inclose herewith copy of an opinion of the honorable Assistant Attorney-General for the Department of the Interior in the matter dated the 24th ultimo; and also copy of Departmental letter dated June 30, 1890, relating thereto.

It will be observed from the opinion above referred to that the claims of the persons named in the appeal which appears to include the cases of John Barnes, John B. Tucker, Joseph Tucker, Joseph Barnes, Edward Tucker, George Tucker, Lee Edmonson, Jackson Glenn, Casey Glenn, Robert Tucker, and Kizh Herrea, Lindsey Williams, and their families to citizenship are rejected; that the honorable Secretary of the Interior concurs in the said opinion and grants authority to eject the parties referred to from the territory of the Choctaws.

You will, therefore, proceed to evict, after proper notice, the parties named above, whose claims to citizenship are rejected by departmental decision inclosed herewith, due regard being had to their present crops and all humane consideration, not however to postpone the result beyond November 1 next.

Should you be unable to remove the said parties from the Choctaw country with the aid of your police force without violence and bodily harm, you will report that fact

and all the circumstances relating thereto to this office, whereupon proper steps will be taken to secure sufficient military force to enable you to execute the instructions of the Department in the matter.

You will also report any action taken by you in the premises.

Very respectfully,

T. J. MORGAN,
Commissioner.

LEO E. BENNETT, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

Madison Perkins, a United States citizen, colored man, of the slave descendants, with the right to improve land and live in the Choctaw Nation. I have improved this claim three years, and now a citizen of the Choctaw Nation is infringing upon my claim, and he is trying to take my spring from me. I have improved at the spring, for that is my main dependence. I went to the judge; the judge said that we stood just as were till we had registered. I can prove it all by three witnesses. Now I appeal to your honorable instructions.

Fineleaf, this 28th day November, Caddo, 1884, Choctaw Nation, Indian Territory.

MADISON PERKINS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, December 13, 1884.

SIR: Inclosed herewith I transmit a copy of a letter from Madison Perkins, dated Caddo, November 28, 1884, relative to encroachments upon his improvements in the Choctaw Nation. Mr. Perkins claims to be one of the descendants of the colored people held in slavery by the Choctaws, referred to in the third article of the Choctaw and Chickasaw treaty of 1866 [14 Stats., p. 769], and is advised by the judge that nothing can be done in his case until he has been registered.

As the Choctaw council by its act of May 21, 1883, which act received the approval of the Secretary of the Interior, adopted these freedmen, and declared them to be entitled to all the rights of citizens of the Choctaw Nation, with certain exceptions; declared them to be entitled to 40 acres each of the lands of the nation, to be selected and held by them under the same title and upon the same terms as the Choctaws, you will make such examination of the matter as the case demands, and report your findings, with your recommendations, to this office, that such action may be taken as to render justice to all the parties concerned.

Very respectfully,

H. PRICE,
Commissioner.

JOHN Q. TUFTS, Esq.,
United States Indian Agent, Muskogee, Ind. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, December 13, 1884.

SIR: In reply to your appeal of November 28, 1884, for protection in retaining possession of your improvements in the Choctaw Nation, Indian Territory, you are advised that I have this day instructed United States Indian Agent John Q. Tufts to investigate your claim, and report his findings to this office, with such recommendations as he may think the case demands, that such action may be taken as to render justice to all parties in interest.

Very respectfully,

H. PRICE,
Commissioner.

MADISON PERKINS, Esq.,
Caddo, Ind. T.

DEPARTMENT OF THE INTERIOR,
Washington, January 29, 1885.

SIR: In compliance with the recommendation contained in your communication of 28th instant, authority is hereby granted for the agent of Union Agency, Ind. T., to

expend a sum not exceeding \$50 in proceeding to Fort Smith, Ark., for the purpose of hearing evidence in certain fifty-one contested claims to Choctaw citizenship; payable from funds applicable.

Very respectfully,

H. M. TELLER,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 10, 1885.

SIR: Under date of January 28, 1885, the honorable Secretary of the Interior granted authority for you to expend a sum not exceeding \$50 in proceeding to Fort Smith, Ark., for the purpose of hearing evidence in certain fifty-one contested claims to Choctaw citizenship; payable from funds applicable.

Very respectfully,

H. PRICE,
Commissioner.

JOHN Q. TUFTS, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

SUGARLOAF COUNTY, *Choctaw Nation.*

Hon. H. PRICE,
Commissioner of Indian Affairs:

I have the honor to inform you that I have been a resident of said county for the past four years; that I claim to be a Choctaw, and have evidence to establish my claim to the rights of Choctaw citizenship.

The Hon. Charles H. Benton, late county judge of this county, Hon. J. F. McCurtain, late principal chief, and the Hon. John Q. Tufts, United States Indian agent, were all aware of my claiming Choctaw citizenship, and that I was not recognized as such by the Choctaw authorities.

I am informed that an arrangement was agreed upon by the proper authorities of the Choctaw Nation and the United States for the settlement and final disposition of all disputed citizenship, and under that arrangement I expected to be notified to appear at the last session of the Choctaw general council in order that my case might be fairly investigated, but for some reason, to me unknown, I have not been so notified.

I still claim to be a Choctaw, and as such I deem it my duty to appeal to you for your protection against the action of any person or any kind of authority who might propose to interfere with me or my property until I have the opportunity of an investigation as provided under said arrangements so entered into for the settlement of all cases of disputed claimants to Choctaw citizenship.

I hope you will give this petition your very early consideration and send me the necessary papers for my protection, and as in duty bound your petitioners will ever pray.

M. M. CHANDLER.

Sworn to and subscribed before me, clerk of the county court of Skullyville County, Choctaw Nation. In testimony whereof I have hereunto set my hand and affixed the seal of said court, this the 28th day of January, A. D. 1885.

[SEAL.]

JOHN TAYLOR,
Clerk.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 27, 1885.

SIR: In reply to your communication dated January 28, 1885, I have to inform you that Agent Tufts was instructed, under date of March 22, 1884, to notify all disputed claimants to citizenship in the Choctaw Nation, whose names should be furnished him by the Choctaw authorities, to appear at the next session of the proper tribunal and submit their claims for adjudication as provided by the Choctaw laws.

If you have not been notified to appear, your name has not been furnished the agent by the Choctaw authorities.

Until you have been so notified, you cannot be disturbed in your residence with the Choctaws.

If you so desire, you can make application to the proper Choctaw tribunal to hear and determine your claim to citizenship, when, if refused, you can appeal to the United States agent.

Very respectfully,

H. PRICE,
Commissioner.

M. M. CHANDLER, Esq.,
Moxey, Choctaw Nation, Indian Territory.

FORT SMITH, ARK., April 8, 1885.

SIR: Mr. M. Chandler, of Moxey, Choctaw Nation, Indian Territory, is being removed from the Territory by force, and at great loss and destruction of his property. We inclose you copy of a letter from Price, ex-Commissioner of Indian Affairs, which, together with other papers on file in his office, forwarded at the time this letter was written, will explain fully the status of Mr. Chandler's complaint. Mr. Chandler claims to be entitled to citizenship in the Choctaw Nation, and that he has never had notice served on him to contest the same. He claims that Agent Tufts is acting in violation of the instructions given him at the same time the inclosed letter was written.

Mr. Chandler is a quiet and good citizen, with a large family, and this move against him is ruinous to him. He has a large saw-mill and saws lumber exclusively for citizens of the Territory, and not one foot of the lumber ever leaves the Choctaw Nation. We hope you will have the proper officers of Indian Affairs to look into this matter. Mr. Chandler can furnish the required proof when called on.

Yours, etc.,

TABOR, TABOR & LATHAM.

Hon. L. Q. C. LAMAR,
Secretary of the Interior, Washington:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 27, 1885.

SIR: In reply to your communication dated January 28, 1885, I have to inform you that Agent Tufts was instructed, under date of March 22, 1884, to notify all disputed claimants to citizenship in the Choctaw Nation, whose names should be furnished him by the Choctaw authorities, to appear at the next session of the proper tribunal and submit their claims for adjudication as provided by the Choctaw laws. If you have not been notified to appear, your name has not been furnished the agent by the Choctaw authorities.

Until you have been so notified you can not be disturbed in your residence with the Choctaws.

If you so desire you can make application to the proper Choctaw tribunal to hear and determine your claim to citizenship, when, if refused, you can appeal to the United States agent.

Very respectfully,

H. PRICE,
Commissioner.

M. M. CHANDLER, Esq., *Moxey, Choctaw Nation, Indian Territory.*

Since the receipt of the above letter Mr. Chandler has been awaiting action of the Choctaw authorities, and has received no notice to appear before any tribunal and settle his claims to citizenship.

His property has all been seized by the United States Indian police and he ejected from the Territory under the order of Agent Tufts.

TABOR, TABOR & LATHAM.

UNION AGENCY, IND. T.,
Muscogee, April 14, 1885.

SIR: Referring to my report dated April 2, 1885, in the case of M. M. Chandler, I have to report that I am in receipt of a letter from Messrs. Tabor, Tabor & Latham, attorneys at Fort Smith, Ark., asking that the proceedings for Chandler's removal be stopped until the matter can be investigated. I have replied that Mr. Chandler has had nearly a year to present any reasons why he should not be removed from the country. He appeared at this office with his attorney, had a full investigation, and promised to leave the country or comply with the law.

He again commenced cutting lumber, in violation of his promise, and when his lumber is seized (just as I told him it would be) he employed new lawyers, who want proceedings stopped and another investigation, without presenting any new claim that has not already been investigated.

In a similar case in the Cherokee Nation (see office letter dated August 19, 1881, L. 14527, '81) not only was the lumber and logs confiscated and sold by the Indian authorities, but the mill also. It was just and right, and though eminent attorneys were consulted by the owners of the mill, nothing was done. It has had the effect to put a stop to the unlawful cutting of timber on that reservation.

I respectfully recommend that Chandler be notified that he must remove his mill at once, or no effort will be made to prevent the Choctaws from confiscating it.

Very respectfully, your obedient servant,

JOHN Q. TUFTS,
United States Indian Agent.

HON. COMMISSIONER INDIAN AFFAIRS,
Washington, D. C.

EXECUTIVE OFFICE, CHOCTAW NATION,

Sans Bois, Ind. T., April 28, 1885.

DEAR SIR: There is one M. M. Chandler, a non-citizen of this nation, who is now in our midst, and who is or has been up to a short time since running an extensive saw-mill business, and one who never paid any royalty for the manufacture of lumber by him in this nation, nor would he (Chandler) ever enter into contract with our national authorities; thus disregarding our local and intercourse laws regulating intertribal relations. Mr. Chandler located in this country about the year 1850, claiming to be a Choctaw Indian by blood, and while he has made no efforts to establish his rights as our law requires, which rights were disputed, yet he assumes the privileges of Choctaw citizenship, manufactures and disposes of lumber regardless of royalty due on the same, thereby trampling upon our laws and treating the urgent demands of our officers with extreme contempt. If Mr. Chandler inherited Indian blood, he has had the chance to establish his rights these past four years; but no efforts being made on his part to prove his lineal descendancy of Choctaw ancestry is evidence in itself that Chandler has no rights either by blood or otherwise.

The opinion and instructions of Col. John Q. Tufts, United States Indian agent, to Mr. R. J. Ward, United States Indian police, was that the lumber at Chandler's mill should be attached, advertised for sale to the highest bidder, and sold accordingly; the proceeds of such to be turned over to the Choctaw Nation for back royalty, due for the lumber manufactured within its limits, and further orders were given by said agent, accompanied with notice to Chandler, to remove with his machinery and entire effects beyond the limits of this agency, which orders were all promptly obeyed so far as removing the machinery and the sale of lumber is concerned, but Mr. Chandler fortifies himself with several comrades at the lumber yard, and it is said defies the purchaser or any other person to approach and attempt to the lumber. This being the state of affairs which in my opinion may result perhaps in serious trouble, I made a written proposition and sent it to Mr. Chandler, the object of which was to effect a compromise if possible, and thereby settle the matter amicably, which proposition was in substance about as follows: "That if Mr. Chandler would agree to pay all back royalty due this nation on lumber manufactured by him he could return his machinery and proceed with his work, provided, however, he would enter into contract with our national agent, and give bond with good and sufficient securities conditioned to comply with our laws henceforth." It seems that Mr. Chandler made some commonplace remarks about this my humble proposition, evidently showing his unwillingness to do what is right. Now the question I wish to ask in this connection is what mode of operation would it require to rid this person (Mr. Chandler) from our midst? Mr. Chandler has made himself conspicuous—yes, even obnoxious—during his stay in this country, and should feel the effects of justice to the fullest extent of law.

Very respectfully,

EDMUND MCCURTAIN,
Principal Chief, Choctaw Nation.

HON. JNO. D. C. ATKINS,
Commissioner Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS.

Washington, April 29, 1885.

GENTLEMEN: I am in receipt, by Department reference, of your letter of the 5th instant, in reference to the case of one M. M. Chandler, charged with unlawfully

operating a saw-mill and manufacturing lumber in the Choctaw Nation, and requesting a suspension of proceedings pending an investigation, which you ask shall be made.

The facts in the case appear to be as follows:

On the 9th July, 1884, Agent Tufts reported to this office that Chandler, claiming citizenship in the Choctaw Nation, who had been running a saw-mill in the Nation during the past year, refused to pay the accustomed royalty to the Nation of \$1 per 1,000 feet; that Chandler claimed to have sold his mill to Holt and Holbrook, United States citizens, to be paid for with 225,000 feet of lumber delivered to Chandler, and that these parties refused to recognize these parties in any manner.

On the 17th day of July Agent Tufts was instructed by this office that if it was found that Holt and Holbrook claimed the mill they should be notified to remove it at once beyond the limits of the agency, and in the event of their neglect or refusal to go, that they should be removed by force; also, that if Chandler refused to pay the Choctaw Nation its royalty the lumber should be seized until after the question of his citizenship was determined.

On the 2d instant, Agent Tufts reported his action in the matter to this office, from which it appears that as directed he notified Holt and Holbrook, who left the country immediately; that Chandler stopped the mill and accompanied by his attorney, Campbell Leflore, of Fort Smith, appeared at the agent's office to show cause why he should not be removed from the country as an intruder; that a full investigation was then had; that Chandler made no defense of any kind or claim to Choctaw citizenship or any reference thereto; and that at the termination of the inquiry the agent notified him to remove with the mill and his effects from the Indian country, which he either promised to do, or comply with the Choctaw law regulating the manufacture of lumber, in that country. Mr. Leflore, it seems abandoned the case.

Notwithstanding his promise, Chandler again started the mill and re-commenced cutting lumber without the requisite authority, which lumber has since been seized by the Choctaw authorities. He now applies to have the proceedings stopped, and another investigation ordered, without as I am informed, presenting any claim which has not hitherto been fully investigated.

Mr. Chandler having had nearly a year within which to present any valid reasons why he should not be dealt with as an intruder in the Choctaw country, and having failed to do so; and having moreover violated his undertaking given to the agent to comply with the Choctaw law, or remove from the country, I see no reason for any further interference in his behalf, and have therefore approved Agent Tufts's recommendation that he be notified to remove his mill at once from the Choctaw country, and that his failure to do so will be at his own risk entirely.

Very respectfully,

JNO. D. C. ATKINS,
Commissioner.

MESSRS. TABOR, TABOR & LATHAM,
Attorneys at Law, Fort Smith, Arkansas.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 29, 1885.

SIR: Referring to your letter of the 2d and 14th instant, reporting action had in the case of M. M. Chandler, charged with running a saw-mill and manufacturing lumber in the Choctaw Nation without authority, and stating that an application has now been made to you by Messrs. Tabor, Tabor & Latham, of Fort Smith, to stay the proceedings for Chandler's removal until such time as another investigation can be made, I have to say that it appears from your report of the 2d instant that shortly after the receipt of office letter of instructions of July 17, 1884, and upon notification from you to that effect Chandler stopped the mill and appeared at your office to show cause why he should not be removed from the country as an intruder; that he made no defense whatever, and that his attorney, Mr. Leflore, of Fort Smith, abandoned the case; that he made no claim to Choctaw citizenship, nor presented evidence of any kind in support of such a claim; that he then and there promised to comply with the law or leave the country; but that in violation of his promise he again started his mill and commenced cutting lumber without authority, which has since been seized by the Choctaw authorities. At this juncture he again steps in and employs new attorneys, who want the proceedings stopped and a new investigation had without, as you state, presenting any claim which has not already been investigated.

In reply I have to say that Mr. Chandler having had nearly a year in which to present any valid reasons he may have why he should not be removed from the Choctaw country, and having failed to do so, and having moreover violated his undertaking to comply with the Choctaw law or remove from the country by resuming

operations therein, I see no reason for any further investigation or delay in the matter, and therefore approve your recommendation that Chandler be notified to remove his mill at once from the Choctaw country, and that failure to do so will be at his own risk entirely.

Very respectfully,

JNO. D. C. ATKINS,
Commissioner.

JOHN Q. TUFTS, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, May 7, 1885.

SIR: In reply to your letter of the 28th ultimo, relative to the case of one M. M. Chandler, charged with running a saw-mill and manufacturing lumber in the Choctaw Nation, without authority, I inclose herewith for your information a copy of a letter written from this office to Agent Tufts on the 29th ultimo, approving his recommendation made in the premises.

Should Mr. Chandler still refuse to leave, Agent Tufts will doubtless report the fact to this office for further instructions.

Very respectfully,

E. S. STEVENS,
Acting Commissioner.

HON. EDMUND MCCURTAIN,
Principal Chief, Choctaw Nation, San Bois, Ind T.

SAN BOIS, IND. T., *February 19, 1885.*

SIR: You will please answer the following questions, and by so doing will confer a great favor: Has a Choctaw Indian, by blood or otherwise, yet a citizen of the United States and at the time a resident of the State, a right to hold stock of any kind (cattle in particular) for grazing purposes within the limits of this nation? The fact is, there is a certain Choctaw Indian by blood who was raised in the States, over whom our Choctaw authorities have no jurisdiction, and who refuses to comply with our existing permit law in hiring non-citizen labor, to which all other citizens of this nation are subject. Now what manner of procedure shall our Choctaw authorities pursue in order to check such a person from intruding by taking advantage of our laws under circumstances above mentioned? Suppose a Choctaw citizen by blood or otherwise, commits the crime of murder or any other crime against a fellow-citizen within the limits of this nation, and take refuge in any of the adjoining States, how should the Choctaw authorities proceed to secure such refugee from justice and bring him to trial before the proper tribunal? Again, a Choctaw citizen having been tried, convicted, and fined in the Choctaw courts for introducing whisky, has the United States court a right to take up and try the same man for the same offense?

Hoping to hear from you soon, I am, with respect,

ED. MCCURTAIN,
Principal Chief, Choctaw Nation.

HON. H. PRICE,
Commissioner Indian Affairs, Washington, D. C.

GULF, COLORADO & SANTA FÉ RAILWAY COMPANY,
Dougherty Station, Ind. T., January 25, 1890.

SIR: We want some information in regard to Chickasaw Nation. We are non-citizens here on Leases & Rentals they the Indian authorities have passed a law requiring us to pay a permit of five dollars for staying the Territory annually can they enforce the payment or expel us from the Territory, and if so can we make them pay for the improvements that we have put on the land under a contract made with the Indians. And in case of trouble between us and the Indians does the United States Government propose to back them against the non-citizens or will they let us settle the matter among ourselves in other words will the United States let us bring this Nation in as us and the Indians may see fit, provided the Indian has a fair chance it can all be fixed in ninety days if the United States will let the parties here settle it among themselves.

Respectfully,

E. M. WELLS *et al.*

HON. SECRETARY OF INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 11, 1890.

SIR: In reply to your letter of January 25, 1890, received by Department reference, I have to say that the permit laws of the Chickasaw Nation were held by the Attorney-General in his opinion of July 19, 1884, to be constitutional and valid, and that any one not a citizen of the Chickasaw Nation, who neglects or refuses to comply with those laws, is liable to removal therefrom as an intruder without regard to any contract he may have with any individual citizen of the said nation.

Very respectfully,

T. J. MORGAN,
Commissioner.

E. M. WILLS, Esq.,
Dougherty, Ind. T.

PURCELL, CHICKASAW NATION, IND. T., *February 10, 1890.*

MY DEAR SIR: I wish to have a line from you. Near three years ago I made settlement on some land near the railroad depot, intending to make it my home. At that time there was no town here. Now the town is a good-sized place, and lots are getting to be worth some money. No one has ever intimated that I, being a native, had no right to all the land I could use not in use by any other native, but about one year ago a man by the name of John Hazel made an effort to get my land. I did not want to dispose of my place, as it suited me to live there. On the 8th instant, while I was away on business, this same Hazel went to my place and tore down one house and set fire to another one. A lawyer in town told him he had better put out the fire and he did so. This man Hazel claims to be a native of this nation. When I made settlement here no one had made claim nor put up any kind of improvement on the land. I understand that he has brought suit against me for possession and the case comes up April 10, at Muscogee. Is there any way by which I can stay upon my home and not be molested? Is there any law for a man to be dispossessed by a claimant after he is legally in possession of the land? Has any United States court the right to send an officer and put my things out of my house in my absence? All this was done on the 8th instant. My people were told to vacate or be put out again in ten days. I am a native, but a colored man. Our people are being crowded considerably now, and I will ask another question. One year ago I gave Mr. J. W. Hoher the sum of \$5 with the understanding that the money would secure me a title to live upon the land and not be molested. Has that money ever reached the office of the Interior and from your office to the Indian agent? This is the way he told me it had to go. I only wish to have what I am entitled to as a native, being the fact that I am a colored man. This man Hoher has told us that we could not hold our lots for a church and school purposes that we have had over a year. He claims that he can and will take the lots and our house also. Please answer as soon as you can.

Yours, most respectfully,

TOM RANDOLPH.

Hon. SECRETARY OF THE INTERIOR,
Washington, D. C.

[Telegram.]

OFFICE OF INDIAN AFFAIRS,
Washington, D. C., February 20, 1890.

TO BENNETT,
Agent, Muscogee, Ind. T.:

Thomas Randolph, Chickasaw freedman, reports depredations upon his property at Purcell. Investigate, and give him such protection as the facts will warrant. See article 4, treaty of 1866 (14 Stats., 770). Report action hereunder.

R. V. BELT,
Acting Commissioner.

[Telegram.]

OFFICE OF INDIAN AFFAIRS,
*Washington, D. C., March 13, 1890.*To BENNETT,
Agent, Muscogee, Ind. T. :

Notify Hazel to restore to Tom Randolph possession of his improvements in condition they were when taken, otherwise he will be removed from Chickasaw Nation. Report whether Hazel complies.

T. J. MORGAN,
*Commissioner.*DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 20, 1890.

SIR: Referring to office telegram of even date herewith, giving you instructions relative to complaint of Tom Randolph, a Chickasaw freedman, that his improvements at Purcell have been intruded upon by a party claiming to be a Chickasaw citizen, I inclose herewith, for your information, copy of a letter of February 10, 1890, from Mr. Randolph, on the subject.

Very respectfully,

R. V. BELT,
*Acting Commissioner.*LEO E. BENNETT, esq.,
*United States Indian Agent, Union Agency, Muskogee, Ind. T.*UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., March 15, 1890.

SIR: When your order of the 20th ultimo came to investigate the case of Tom Randolph, a Chickasaw freedman, there were in the agency a number of other matters of almost identical nature. When I directed Mr. Morris to go to Purcell and investigate the Randolph case I also directed him to look into these other cases. I herewith transmit to you Mr. Morris' report, together with a lot of evidence bearing on the subject.

It does not appear that I can add any to this report, nor to the information heretofore transmitted showing the corruption of the Purcell Internal Improvement Company alias Hocker, Green, *et al.* There is no shadow of doubt in my mind but that Hocker (who is a United States commissioner) has used his official position to intimidate those who were in the way of this improvement company. I can secure additional affidavits to those heretofore furnished, showing the continued and continuing robbery practiced and perpetrated by these men upon native Indians, freedmen, and whites.

I renew and urge my recommendations heretofore submitted that these parties be dealt with in a manner that will impress the people that this agency and the whole Indian Department are not under the thumb of these swindlers. There is not, within my knowledge, a more shameful conversion of Indian lands and rights to speculative purposes than has been done at Purcell by this Purcell Internal Improvement Company. And it is by no means creditable to this great Government of ours that these men have had twelve months' full sway in their speculative swindling. These men, Hocker and Green, are instigators of four-fifths the trouble arising at Purcell, and often engage in such matters elsewhere in the Chickasaw Nation.

I have the honor to be, very respectfully, your obedient servant,

LEO E. BENNETT,
*United States Indian Agent.*The COMMISSIONER OF INDIAN AFFAIRS,
*Washington, D. C.*UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, March 7, 1890.

DEAR SIR: Complying with instructions contained in agency letter dated February 20, 1890, I have the honor to report that I have investigated the case of Thomas Randolph, a Chickasaw freedman, *vs.* John Hazel, a native Chickasaw, for intrusion upon the premises of said Randolph and forcibly taking possession of the same, tearing down one house, firing another, etc.

Mr. Randolph appeared before me with his witnesses, at Purcell, Monday, March 3, 1890, as directed in a notice served upon him February 20. All statements were made under oath and the investigation was as thorough as I could make it.

Mr. Randolph, being first sworn, stated that he had resided in the Chickasaw Nation twenty-five or thirty years; that he was a slave before the war and owned by William Randolph, by whom he was freed in 1865 (a statement to that effect dated February 16, 1889, and signed by W. C. Randolph and S. A. Randolph is now on file in this office); that he has always been recognized as a freedman by the Chickasaw national authorities. That in May, 1887, he obtained permission from William Alexander to homestead a certain place located west of Purcell and adjoining the present town site on the west, and containing about 140 acres of ground; that he immediately commenced to improve said place, and last year (1889) had broke out about 22 acres; that it was his intention to live upon said place and make it his home and the support of himself and family, which at that time consisted of five persons beside himself; that the nearest improvement at that time was between 400 and 600 yards (or beyond the limits required by the Chickasaw law); that he was compelled to work out some to secure money to push his improvements, for he had neither money nor a team. No one disputed his right to said place or claimed he was intruding upon the rights of others until November, 1887, when John Hazel claimed the place, saying he had purchased the place from one Lee, and in the following spring the said John Hazel bought some posts of him to fence another place, but instead fenced in all of Randolph's improvements, including a house, well, and 5 acres of broke ground, after which he ordered him, Randolph to leave, which he refused to do. In the following spring Hazel proposed to purchase said place from Randolph, who refused to sell, after which Hazel left him and said no more about it.

That on the 5th day of February, 1890, Hazel came with a deputy United States marshal and ordered his family out and took out his household goods and handed them into the street, also those of his son-in-law, who lived in a house built upon his places. After removing the household goods Hazel pulled down his son-in-law's house and set fire to his, Randolph's house, and put it out again on the advice of a lawyer who was summoned when the trouble began.

His son-in-law moved the household goods back again that night, but in ten days they were ordered out again, and being unable to furnish the bond required their goods were hauled off the premises and Hazel put in possession.

He states that in 1889 Mr. J. W. Hocker drew up some papers for him and after the work was done claimed \$5 as a fee to be paid to the Indian agent for his services (the agent's) in securing him a title to the place, and that he paid Hocker the \$5 two or three days later; that Hocker did not claim any pay for his services in drawing up the papers, and that he has never heard from them.

To substantiate his allegations, Mr. Randolph produces the testimony of William Alexander, a Chickasaw freedman, who states under oath that in May, 1887, he allowed Mr. Randolph to take possession of a certain piece of ground to which he, Alexander, had always been the undisputed claimant. He also states the facts connected with the turning over of said place to Randolph, to-wit:

That in 1886 one Lee came with a bunch of horses and, after making several ineffectual efforts to secure a lot or pasture in which to hold them, finally asked and secured permission of him, Alexander, to build a dugout and horse lot on his place, the same place now in dispute with Hazel, on condition that Lee should turn over to Alexander his improvements when he left the place. That Lee built a dugout and horse lot upon said place and occupied them about three weeks, after which he left the country, turning over the improvements to Alexander as agreed; that he, Alexander, hauled off the rails of which the horse lot was composed and used them in other improvements; that the dugout was afterward occupied for a short time without permission by a white man, and in May, 1887, he relinquished his claim to Tom Randolph, who moved upon the place and has since improved and occupied the same until ejected by the deputy marshal in February last. That when Randolph subsequently enlarged the place to its present dimensions he did so with Alexander's consent and took in land that had been part of Alexander's claim and which he relinquished to Randolph, who had intruded upon no other claim, and that the man Lee had no further right or claim to said claim than hereinbefore stated.

Robert Johnson, colored, being next sworn, corroborated the statement made by Mr. Alexander, and states that Mr. Lee afterwards told him (Johnson) at Fort Smith that he never had any claim to said place except that Mr. Alexander had permitted him to hold his horses there for a short time, and that when he left he had turned over all the improvements made by him to Alexander.

Mrs. Lou Miller was next sworn and made a statement relative to the ejectment by the deputy marshal and John Hazel. Mrs. Miller is the daughter of Tom Randolph, and lived with her husband on her father's place in a little hut built by the joint efforts of her husband and father. She was present when the notice to remove was served and saw Hazel when he removed the household goods from her own and her

mother's house, saw him tear down her own house and haul away the lumber, and afterwards saw him set fire to her mother's house. She was also present when Mr. Alexander turned over the place to her father.

Wilson Miller's statement corroborates that of his wife. He says he returned from his work in time to see Hazel engaged in the destruction of his house and hauling off the lumber to his own premises; that he saw his father's house on fire and heard Mr. Hutchens tell Hazel "he had better put it out," and saw Hazel go back and do as advised.

A. Guthrie, a drayman, was next examined, and stated under oath that he was employed by Hazel one day early in February to remove some household goods belonging to some negroes to him, then unknown, but now recognized as Randolph and his family; that after tearing down one house, Hazel ordered him to take the lumber to his (Hazel's) house, and he accordingly did take one load, as directed; that when he returned he saw Hazel gathering dry grass and kindling, and smoke issuing from the roof of the house; that while he was assisting to remove the household goods, Hazel told him he intended to burn the house, and that he went into the house with Hazel to help him extinguish the fire, and while so engaged, Hazel remarked that if the deputy marshal had been a little later there would have been no fire to put out, as the house would have been burned down.

All of these witnesses were carefully cross-examined and their testimony was not shaken. Any number of witnesses were prepared to testify as to the correctness of Randolph's statement as to the manner of his getting possession of the place, but I deemed their testimony superfluous. I notified Mr. Hazel before leaving Muscogee that the examination had been ordered; after reaching Purcell, I sent him notice that I would be pleased to consider any statement he desired to make or any testimony he cared to offer. He said he would have nothing to do with the matter. I afterward saw him in person and gave him another opportunity, but he did not appear.

From the foregoing I can draw but one conclusion: that Tom Randolph is a Chickasaw freedman and comes within the provisions of the fourth article of the treaty of 1866, and is entitled to as much land as he can cultivate for the support of himself and his family; and that in 1887 he secured the place now in controversy with the free will and consent of the lawful and undisputed holder; that he commenced and pushed his improvements on said place as fast as his means permitted; that he intended, and did in fact make this land support himself and family, and that it was not held by him for speculative purposes.

Mr. Randolph bears the name of an honest, hard-working man, and it appears to me that the profits to be derived from the cultivation of 140 acres are not too large for the support of a family of six. It appears further that failing to secure, by peaceable and lawful means, possession of this place, which on account of the growth of Purcell will soon be, and in fact is now, of considerable value, Mr. Hazel resorted to force, though not without some show of lawful procedure, for an examination of the records of the United States court at Muscogee shows that Mr. Hazel is now in possession of said place by virtue of a writ of ejectment issued by the proper court official and served by a United States deputy marshal. The writ was issued upon a complaint filed by Mr. Hazel, in "forcible entry and detainer," (see sections 3351, 3352, 3353, 3354, and 3355, Digest of the Statutes, Arkansas), and the case is set for the April term of said court at Muscogee.

My instructions were to "afford these parties such relief in the matter as the facts will warrant." I have accordingly, since my return, called upon the United States attorney at Muscogee, with a view to having the case thrown out of court, if possible, and Mr. Randolph put in possession of his property through this agency, but do not now deem that course advisable, as I am informed that the court will throw out the case when it comes up for trial if it be found that the court has no jurisdiction.

If this be the case the court ought, at least, undo what has been done and put Mr. Randolph in possession as it found him. If the court has jurisdiction, which I doubt, the agency has not, and the matter must be settled in the court, where I am convinced Mr. Hazel can not sustain his action. Mr. Randolph can then bring suit for damages sustained, against Mr. Hazel's bond.

This course, which appears to be the only one now open to him, will result in an injury to Mr. Randolph, as he will be compelled to lose much valuable time in preparing his ground for his next season's crop, on which he depends for his support and that of his family.

It would appear that under treaty stipulations this case should be decided in the Chickasaw courts, but since the Chickasaws refuse the freedmen the rights and privileges accorded them in the treaty, this agency would seem to be the proper channel through which the protection and assistance of the Government should come; but owing to the conflict of jurisdiction between the courts and the agency, I have deemed it unadvisable to act further in the matter, though I fear Mr. Randolph's poverty will not enable him to make as strong a fight in the court as the merits of his case will warrant. I trust my action in the matter will meet your approval.

I do not think I should close this report without stating that it appears to be the general opinion of the people at Purcell that Hazel is being used as a cat's-paw by the Purcell Improvement Company, Green & Co., to secure possession of Randolph's place for their own use and benefit.

I respectfully recommend that Mr. Hazel be reported to the proper court for prosecution on the charge of arson.

I could secure no evidence to support Randolph's statement that Mr. Hocker had charged and collected \$5, which he represented was a fee for the Indian agent, though Mr. Randolph was positive that he did not collect it as pay for his services in drawing up the papers, and close examination did not change his statements.

Very respectfully,

FRED MORRIS,
Clerk, Union Agency.

Hon. LEO E. BENNETT,
United States Indian Agent, Muskogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muskogee, Ind. T., April 25, 1890.

SIR: I have the honor to transmit herewith for your consideration a communication from Thomas Randolph of Purcell, Ind. T., and, referring to Indian Office telegram of February 20, agency letter dated March 8, Indian Office telegram of March 13, and agency letters dated March 22 and 29, respectively, would respectfully ask instructions in the premises.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

UNITED STATES INDIAN SERVICE,
Union Agency, Muskogee, Ind. T., March 22, 1890.

SIR: I have the honor to transmit the inclosed communication from A. Green, esq., relative to the order to Mr. Jonathan Hazel "to restore to Tom Randolph possession of his improvements in condition they were when taken." (See agency report dated March 8, 1890, and Indian Office telegram of the 13th instant.)

You have heretofore been advised as to the character of this man Green, and the inclosed communication from him but emphasizes the unscrupulous villany of the scoundrel.

I again recommend, as I have heretofore unavailingly done, that Green and Hocker be removed from the Indian country. Yet if they are removed they will return at once and continue a source of annoyance and a detriment to the peace and welfare of the Chickasaw people. I can almost regret now that last July I advised the outraged citizens of Purcell that they could secure speedy relief through the Indian Office. Without this advice these two twin scoundrels would have doubtless been inhabiting a warmer clime.

I have the honor to be, very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

PURCELL, IND. T., March 18, 1890.

DEAR SIR: Mr. Jonathan Hazel handed me to-day, as his attorney, to answer an order from you which contains the following command:

"Restore to Tom Randolph possession of his improvements in condition they were when taken; otherwise you will be removed from the Chickasaw Nation."

Mr. Hazel is a well-known citizen of the Chickasaw Nation; neither you nor the Commissioner of Indian Affairs have any right to issue to him such a command, and where you get your authority to remove a Chickasaw citizen is incomprehensible to any person who understands the United States laws defining the duties of the Commissioner of Indian Affairs and his agents.

You certainly must be under the erroneous impression that Mr. Hazel is a non-citizen.

Mr. Hazel was placed in possession of his land, which the negro Tom Randolph had jumped, under a writ from the United States court for the Indian Territory. By what despotic power or authority does the Commissioner of Indian Affairs or his agent assume to set at defiance the writs of the United States courts and to exile a Chickasaw citizen? Such powers are only exercised under governments like Russia.

This unwarranted interference with writs of United States courts and the rights of Chickasaw citizens has been carried about far enough. I shall bring the matter to the attention of the Secretary of the Interior and the Attorney-General, and will also apply to Judge Shackelford, when the April term of court convenes, for a rule against you to show cause why you should not be fined for wrongfully interfering with its process. The despotic acts of petty tyrants, clothed with a little "brief authority" as Indian agent in this Territory, must now give place to law and justice.

The Indian Territory is entering upon a new era, in which the rights of citizens as well as non-citizens are to be passed upon and adjudicated by the courts, and are no longer dependent upon the will or order of an Indian Commissioner or agent. This is not the first time the Indian agent has wrongfully interfered with the rights of clients of mine, and I propose to have a final settlement of the matter in the Departments and the courts.

The assumption of the right of the Indian agent to confiscate property, nullify writs of United States courts, and exile citizens, whose rights are secured and established under treaties, as well as the constitution of the Chickasaw Nation, can not be tolerated under our system of free government.

Mr. Hazel will not restore to Tom Randolph any possession taken and delivered to him under the writ of the United States court until that court directs it; and then he will cheerfully obey its mandate, and if the Commissioner of Indian Affairs, or his honorable agent at Muscogee, interferes illegally with his person, liberty, or property, he will seek redress through the courts against them.

To what Siberia do you propose to exile him? When did it become a crime, and under what law, for a citizen of the Chickasaw Nation to resort to a court of competent jurisdiction to recover possession of his rightful property?

I entertain a high regard for officers, when in the proper discharge of the duties that belong to their official positions, and respect and advise my clients to obey all rightful orders emanating from them. But now I feel it my duty to advise Mr. Hazel that the order forwarded to him is without the shadow of legal authority, and that any attempt to enforce it on the part of the Commissioner of Indian Affairs or yourself would be a crime under the constitutional laws of the United States, and would subject those issuing and executing it to both civil and criminal prosecution.

I also deem it my duty to call the attention of the proper Department to this usurpation of despotic power and plain violation of law and duty of their subordinates.

It is time this disregard of the rights of suitors and this attempt to intimidate, harass, and annoy them on the part of your agency for exercising their rights was stopped. The agency is being used for purposes of wrong and intimidation, and the sooner it is abolished the better for the Indian and all other classes.

It can not be claimed by your agency that it was ignorant of the fact that Mr. Hazel was a Chickasaw citizen, for the reason that he had heretofore applied to the agency for the removal of the jumpers from his land, and no relief was afforded him, and he was forced to seek redress through the courts.

I am, respectfully, yours,

A. GREEN,
Attorney for Jonathan Hazel.

HON. LEO E. BENNETT,
United States Indian Agent, Muscogee, Ind. T.

DEPARTMENT OF THE INTERIOR,
Washington, February 19, 1890.

DEAR SIR: I draw your attention to the inclosed newspaper cutting. If there is anything in it it ought to have your serious attention.

Yours, truly,

JOHN W. NOBLE,
Secretary.

THE COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 24, 1890.

SIR: The attention of this office has been called by the Secretary of the Interior in a letter of February 19, 1890, to the inclosed newspaper cutting entitled "Chickasaw Evictions," from which it appears that the Chickasaw authorities are taking steps to use the militia of that Nation to remove non-citizens who refuse to comply with the permit laws thereof.

You will immediately advise this office whether there is any truth in this statement, and if it is true, advise Governor Byrd that his authorities are without jurisdiction in the premises and will be held responsible for any violence that may result from such action in the matter.

It is desired that you keep this office fully advised of all action taken by you or the Chickasaw authorities in connection with the subject.

The inclosure herewith, should be returned to the files of this office.

Very respectfully,

R. V. BELT,
Acting Commissioner.

LEO E. BENNETT, Esq.,
U. S. Indian Agent, Union Agency, Muskogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muskogee, Ind. Ter., February 17, 1890.

SIR: I have the honor to acknowledge receipt of your communication, dated February 11, 1890 (L. 35240—1889), relative to the removal of intruders from the Chickasaw country, directing that I "proceed to carry out the instructions heretofore given on this subject."

On October 14, 1889, I asked authority to employ an Indian police force for this service, which request you stated on October 25 (A. 3018—'89) could not be granted. On December 7 I requested that "immediate steps should be taken to provide troops, as contemplated in authority 19121 of January 10, 1889," and also asked "authority for necessary expense." I am not advised of any arrangement for troops and have not been authorized to incur and pay for any expense in this connection.

I beg to say, with all due emphasis, that if the order of removal is to be carried into effect in a practical manner it will be necessary (1) that soldiers be provided; (2) that I have authority to use at least six of my Indian police; (3) that authority be granted for the expenditure of a sum not exceeding \$1,200; (4) that authority be granted, in effecting these removals, that neither myself, Indian police, or the soldiers employed shall be subject to any order of estoppel or warrant of arrest issued by the Paris, Tex., court.

As you have been heretofore informed by this agency, the condition of affairs in so much of the limits of the agency as lies within the jurisdiction of the Paris, Tex., court, is quite critical, because of the conflict of authority. (See agency letters dated December 17, 1889, January 4, and February 10, 1890.)

The gamblers, fakirs, horse-thieves, whisky-sellers, and intruders appear to have a vigorous "pull" with some of the officials of that court, and in preparing for these removals, if the Interior Department does not give me the authority to protect the police, the soldiers, and myself against orders from this court, some of the thousands of scoundrels in the Chickasaw country will be enabled to defeat your order for these removals by swearing us into the custody of said Paris, Tex., court.

In my opinion this court has no right, nor shadow of right, to interfere with the operation of this agency, acting under your instructions; but until you have declared your views upon the point at issue, I have believed it advisable not to offer resistance to what I conceive to be unwarranted and unlawful process from that court. A gross wrong exists somewhere, that there could be a conflict of authority, as set forth; but it does exist, and it seems to me to be so important that I recommend that the honorable Secretary of the Interior and the honorable Attorney-General be advised thereof with a view of promptly and decisively determining the matter. Sir, words are not emphatic enough to express to you the exact situation, which can only be appreciated by those who mingle with the changing scenes.

I have the honor to be, very respectfully and obediently, your servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 25, 1890.

SIR: Referring to office report of December 15, 1888, recommending that authority be granted for the removal of all persons found within the Chickasaw Nation contrary to law, and to Department letter December 27, 1888, granting the authority desired, I have the honor to state that by letter of January 10, 1889, this office advised R. L. Owen, then agent at the Union Agency, of the granting of said authority, and directed him to take steps to carry the same into effect.

He was also advised that by a letter of December 31, 1888, the War Department informed this Department that the major-general commanding the Army had been instructed "to carry out the wishes of the Department of the Interior in this matter should the assistance of troops be deemed necessary."

I am now in receipt of a letter of February 7, 1889, from Agent Bennett, transmitting telegraphic correspondence between him and the commanding officer of Fort Sill, from which it appears no special orders have been given that officer to furnish troops to assist in the removal of intruders from Chickasaw country, and of a letter of February 19, 1890, also from Mr. Bennett, in which he says that in order to carry the authority for the removal of these intruders into effect in a practicable manner it will be necessary (1) that he be provided with troops; (2) that he be given authority to use at least six of his Indian police; (3) that authority be granted him to expend a sum of money not exceeding \$1,200, and (4) "that authority be granted, in effecting these removals, that neither myself, Indian police, nor the soldiers employed shall be subject to any order of estoppel or warrant of arrest issued by the Paris, Tex., court."

In explanation of Agent Bennett's desire for the authority requested in the last paragraph, reference is had to office report of January 28, 1890, relative to the arrest of one of his Indian police on a warrant issued by a United States Commissioner in Texas, charging him with robbery in taking two pistols from an intruder in the Chickasaw Nation.

I am aware that no authority from this Department would exempt Agent Bennett or his police officers from harrassing prosecutions if the court officials of the United States Court for the eastern district of Texas are disposed to permit their officers to be used as the means for interference with the proper administration of Indian affairs by the Department and this office through its resident agent; but as section 463 of the Revised Statutes provides that "the Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, and agreeably to such regulations as the President may prescribe, have the management of all Indian affairs, and of all matters arising out of Indian relations," it seems to me that some understanding could be reached by which this Department may carry out the obligations of the Government to the Chickasaws, as expressed in their treaties, to remove these intruders without interference, and I have the honor to recommend that the matter be laid before the Department of Justice for consideration in connection with the subject of office report of January 28, 1890, relative to the arrest of the captain of Indian police, Charles La Flore.

I would also recommend that the Secretary of War be requested to cause such orders to be issued to the officers of the proper military post in the Indian Territory as will result in the detail of a sufficient force of troops to enable the agent to effect the removals desired.

Copies of papers relating to the matter are herewith inclosed and especial attention is called to a copy of a newspaper dispatch among them, from which it appears that the Chickasaw Nation is massing its militia for the purpose of taking the matter in its own hands and removing the intruders upon its public domain, as showing the urgent necessity for prompt and decisive action on the question.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

UNITED STATES OF AMERICA,
United States Indian Agency, Muscogee, Ind. T. :

In the matter of complaint of Emma Dumas against J. W. Hocker and Louis C. Elliot.

UNITED STATES OF AMERICA, *Indian Territory, ss. :*

Before me, L. C. Garritt, a United States commissioner for Indian Territory, personally appeared Emma Dumas, and upon her oath deposes and says that she is a native-born citizen of the Chickasaw Nation, Indian Territory, and is entitled to all the rights and privileges of any citizen of said nation.

That she is the present owner and entitled to the immediate possession of the following-described lots or parcels of ground, to wit: Lot 1, block 6, Anderson's addition to town of Purcell, Ind. T.; that on or about the 1st day of December, A. D. 1889, she took possession of said described lot or parcel of ground and fenced the same with a good and substantial fence camp, and of wood post and wire, and erected her tent thereon.

That no other person was then, or since been, in possession of said premises or claimed the same until the 10th day of February, 1890, when one J. W. Hocker cut and tore down said fence and put Louis C. Elliott in possession of the same.

That said J. W. Hocker and Louis C. Elliott are citizens of the United States and non-citizens of the Chickasaw or Choctaw Nation and have no right in said nation.

That said complainant has no means of holding her said property only through the strong arm of this agency.

Wherefore, she asks that said J. W. Hocker and Louis C. Elliott be cited before the agency to show cause why they hold or attempt to hold said property, and that they be restrained from further interfering with said lots and premises until the hearing of this cause.

ANNE DUMAS.

Subscribed and sworn to before me this 10th day of February, A. D. 1890.

LOUIS C. GARRITT,
United States Commissioner.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., February 15, 1890.

SIR: I have the honor to transmit herewith complaint of Anne Dumas, a Chickasaw, *vs.* J. W. Hocker and Louis C. Elliot, for your consideration and instruction.

As Mr. J. W. Hocker and his methods are well known to the Interior Department, and he has recently been the subject of an investigation, I did not deem it advisable to take any action in this matter without further instructions. I would suggest, however, that when troops can be secured for the removal of intruders from the Chickasaw Nation (ref. letter of even date) Messrs. Hocker, Green, *et al.*, would be most excellent subjects on whom to commence operations, and would respectfully recommend that their removal be authorized.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

CLAREMORE, CHEROKEE NATION, IND. T., *February 14, 1890.*

DEAR SIR: The authorities here refuse to grant me permits for white laborers in my employ. I am a son-in-law of M. M. Bell, who, in 1871, was declared by the power here then in authority to be citizens of this Nation. I am a citizen here and pray you to issue me permits for J. W. Blackburn and J. H. Mayberry to work for me as farmers.

Trusting to hear from you soon,

I am very truly yours,

V. O. CRAWFORD.

Hon. JOHN W. NOBLE,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 26, 1890.

SIR: Referring to office reports of August 5, 1889, and subsequent correspondence relative to the complaint against J. W. Hocker and other non-citizens residing in the Chickasaw Nation, I have the honor to inclose herewith copy of a letter of February 15, 1890, from Agent Bennett, of the Union Agency, Indian Territory, transmitting a sworn statement by Anne Dumas, a Chickasaw citizen of Purcell, in which she complains that the said J. W. Hocker and one Louis C. Elliott, another non-citizen, have dispossessed her of certain property claimed by her at Purcell, and recommending that the removal of the parties heretofore complained of be authorized.

Copy of a letter of February 10, 1890, from Tom Randolph, a Chickasaw freedman at Purcell, from which it appears that Mr. Hocker has received five dollars from him

under the false representation that the said Hocker would secure him the right to live upon certain land improved by him, is also inclosed; and I have the honor to recommend that these additional charges be considered in connection with those contained in the papers transmitted with former reports from this office on the subject.

Very respectfully, your obedient servant,

R. V. BELT,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

[Telegram.]

December 5, 1889.

To COMMANDING OFFICER,
Fort Sill, Ind. T.:

Have you been directed to furnish troops for removal of intruders from Chickasaw Nation?

BENNETT, *Indian Agent.*

[Telegram.]

FORT SILL, IND. T., VIA WOODWARD, IND. T., *December 7, 1889.*

To INDIAN AGENT,
Muscogee, Ind. T.:

No special orders. You had better apply to commanding officer, Fort Gibson.

CARLTON, *Lieutenant-colonel.*

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., December 7, 1889.

SIR: Relative to the matter of removal of intruders from the Chickasaw Nation, I have the honor to inclose to you copy of telegram sent from agency to commanding officer, Fort Sill, and original answer thereto from Lieutenant-Colonel Carlton.

Immediate steps should be taken to provide troops as contemplated in authority 19121, of January 10, 1889.

Authority for necessary expense should also be granted.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 3, 1890.

SIR: Referring to your letters of December 7, 1889, and February 17, 1890, relative to the removal of Chickasaw intruders. I have to inclose copy of report of February 25, 1890, to the Department on the subject, for your information, and to advise you that the appropriation at the disposal of this office for such purposes is not sufficient to warrant the expenditure of \$1,200 in effecting these removals. Authority is, however, hereby granted for you to expend a sum not exceeding \$100 in effecting said removals, which, in view of the fact that the expenses of the military will be borne by the War Department, is considered sufficient.

Very respectfully,

T. J. MORGAN.
Commissioner.

LEO. E. BENNETT, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., March 6, 1890.

SIR: Referring to your letter of March 3, instant (L. 35368-89 and 5264-1890), I have the honor to call attention to the omission of the inclosure mentioned, report of February 25, ultimo, to the Department, and to request the transmission of the same.

As soon as the War Department will furnish the soldiers and wagons for these removals, I will proceed to execute your orders as best that can be done with the restricted authority granted.

You inform me that you can only allow \$100 for the expense of this campaign of at least thirty or sixty days, for it will take fully that length of time to do the work. As to this matter I can only repeat what I have already said, that \$100 is a mere drop in a bucket in comparison to what ought to be expended, and what will be necessary to a strict compliance with the order to "remove all persons found in the Chickasaw Nation contrary to law." But as you say the military will bear their own expense, and I infer I am only to pay my personal bills, \$100 will probably last until the work is fairly begun. But it does seem to me, from personal knowledge of the country and of the people and of the difficulties to be encountered, and as there are not only scores and hundreds, but if this order is strictly enforced, I verily believe many thousands, who will perforce be removed, all of which will take time and money, especially as the great bulk of the work must of necessity be done 10 to 50 miles off the railroads, thereby involving hack or buggy hire to reach scene of action, and that \$100 will only begin the work. The records will bear evidence that several times agents (my predecessors) have gone into the Chickasaw country under similar orders, and with a great flourish of Government power, only to return to the agency feeling that the whole thing has been a farce and that the Government does not intend to remove intruders, except spasmodically. In my opinion it were far better for all concerned if the Government would plainly say the intruders are not to be removed, than to go at it in the manner heretofore pursued and now seemingly about to be re-enacted. If this work is to be properly performed and the Government really desires that I "remove from the Chickasaw Nation all persons found therein contrary to law," it ought to be considered that, as I am under a heavy bond secured by real estate worth at least \$100,000, I ought to be held responsible for my acts and ought to have a carte blanche in every particular in this matter. My record in your office will show that my contingent expenses have been less than any of my predecessors, and will bear me out in the assertion that I have endeavored to save every possible dollar for the Government. I would not expend one dollar more that absolutely necessary, but, as I have in the past, will continue to save all expense I can, yet I do feel that I had as well issue an *ipse dixit* to change night into day as to go into the Chickasaw country with my hands thus tied and my authority thus limited.

You do not say anything about the use of a few Indian police to assist in this service, as I have requested, nor is there any reference to the question of jurisdiction as between the Paris court and the agency. I am thus left to draw my own construction of law, which, as I have already informed you, is that said court has no right to interfere with me nor with my officers while serving your orders, and unless you direct otherwise I shall act upon this construction. I only await the soldiers, who ought to be supplied from Fort Sill or Fort Reno, to begin operations under your orders.

I have the honor to be, very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

WYNNEWOOD, IND. T., *March 12, 1890.*

DEAR SIR: There are some jewelry peddlers and lottery dealers on a small scale in this place and along this line of railroad, which I don't know what to do with. They haven't any license and don't propose to get any. I told them that it was a violation of the law, and one Foster, who had Heck Thomas's posse arrested, is backing them. He claims to be a United States marshal, and tells the gamblers that if I disturb or molest them that he will arrest me. Will you kindly order me at once how to proceed, by telegraph, if you see fit, at my expense?

Respectfully,

Hon. LEO E. BENNETT,
Muscogee, Ind. T.

J. H. WALNER.

UNITED STATES INDIAN SERVICE,
Union Agency, March 14, 1890.

SIR: I have the honor to transmit herewith a letter from J. H. Walner, United States Indian police, at Wynnewood, Chickasaw Nation, relative to evils existing there. The man Foster mentioned is the same fakir and thief who was disarmed by Captain La Flore last December, and for which Captain La Flore was arrested and is now under bond awaiting trial. (See agency letter January 4, 1890.) I am waiting to learn the views of the Department as to whether or no deputy marshals have the right to interfere with Indian police in the discharge of their duty.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 13, 1890.

SIR: Referring to your letter of February 19, 1890, calling the attention of this office to a newspaper clipping inclosed therein, entitled "Chickasaw Evictions," in which it was stated that the Chickasaw legislature had appropriated \$5,000 to meet the expenses of equipping the tribal militia, which was to be called out at once by the governor of that nation and used to eject non-citizens who have refused to pay their permit taxes to the nation, I have the honor to transmit herewith, for your information, a report of February 28, 1890, from Agent Bennett, in reply to a letter of February 24, 1890, from this office, on the subject, from which it appears that the Chickasaw legislature has adopted a law authorizing the governor to appoint and commission a Chickasaw and United States Indian police force and defining the duties of such police force, provided such authority be conferred on them by "the proper authority of the United States, and they shall be subject to the orders of the governor of the Chickasaw Nation in addition to the United States, and they shall operate within the limits of the Chickasaw Nation, and remove, when authorized, intruders from this nation," and that Agent Bennett has advised Governor Byrd that the plan proposed by this act for the removal of intruders can not be adopted by the Government on account of its impracticability.

The return of accompanying papers to the files of this office is requested.

Very respectfully,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

UNITED STATES INDIAN SERVICE,
Union Agency, March 29, 1890.

SIR: I have the honor to transmit for your information inclosed letter from Tom Randolph relative to his matter of complaint *vs.* Jonathan Hazel.

In this connection I respectfully ask your attention to the case of *Green vs. Corrigan* (Missouri Reports, vol. 87, 1885, pages 359 to 374), in which Mr. Green is quite truthfully painted in his unenviable colors.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 3, 1890.

SIR: I have the honor to transmit herewith, a letter of March 29, 1890, from Agent Bennett, inclosing a communication from Thomas Randolph relative to his complaint against John Hazel for trespass on his improvements at Purcell, Chickasaw Nation, and one of March 15, 1890, from Mr. Bennett relative to similar complaints against other parties, for consideration in connection with office report of March 27, 1890, and previous correspondence on the subject.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 10, 1890.

SIR: I inclose herewith a letter of February 24, 1890, from H. E. Paine, esq., of this city, transmitting a copy of a communication of January 24, 1890, from Henrietta Jennings, of Wynnewood, Chickasaw Nation, Ind. T., to Governor Byrd, of that nation, complaining that certain parties are trespassing on her improvements at Wynnewood, and asking for some relief against their encroachments.

I desire you to investigate this matter and should you find that the parties complained of are citizens of the United States, and not subject to the jurisdiction of the Chickasaw courts, you will remove them from Mrs. Jennings's property, unless some arrangements are made by which they shall pay her a just compensation for its use.

You will report your action hereunder and the result thereof.

Very respectfully,

T. J. MORGAN,
Commissioner.

LEO E. BENNETT, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., May 2, 1890.

SIR: Referring to agency letter dated February 17, I have the honor to report that I have not been advised that soldiers have been placed at my disposal in effecting the removal of intruders from the Chickasaw Nation.

I hold myself in readiness to execute any orders from the Department in this matter.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

THE COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, May 16, 1890.

SIR: I have the honor to acknowledge, by Department reference for report, receipt of a letter of April 16, 1890, from Robert L. Owen, esq., counsel for the Choctaw Nation, relative to the Choctaw citizenship case of Glenn, Tucker, and others, against the Choctaw Nation and the action taken by this office therein.

In reply I have to say that under date of October 21, 1882, the Choctaw national council adopted a law requesting the Secretary of the Interior to instruct the United States Indian agent for the Union Indian Agency in the Indian Territory to "hear and determine all applications made to him to establish claims to citizenship in the Choctaw Nation, and the decision of such agent shall be final; provided only that all such applications shall have been made to the proper Choctaw tribunal and by it refused, the agent notifying the principal chief of the time and place of such rehearing."

Under date of March 15, 1884, the Secretary of the Interior, upon the recommendation in a report of March 14, 1884, by this office, on the subject, approved the plan proposed by the Choctaw authorities for the determination of disputed claims to citizenship in that nation, with the further proviso that the decision of the agent, with the evidence in each case appealed to him, shall be submitted to this office for final determination by the Department, and the Indian agent, J. O. Tufts, was, by letter of March 22, 1884, accordingly so directed.

There was no formal acceptance by the Choctaw Nation, so far as this office is informed, of the provision giving this Department the right of final determination of claims affected by the law in question, but it was verbally accepted at the time by the Choctaw delegates then in this city, and it has since been constructively accepted by the nation, which has recognized the proceedings subsequently had under the instructions of March 22, 1884, to Agent Tufts.

In accordance with the instructions given Agent Tufts, Agent Owen, by letter of September 2, 1887, transmitted with others the evidence in the case of Glenn, Tucker, and others against the Choctaw Nation, he having sustained the decision of the Choctaw authorities, which was adverse to the claimants.

These cases were submitted for the consideration of the Department, in a report of October 4, 1887, in which the following occurs in reference to the claim now under discussion, viz:

"This appeal appears to include the cases of John Barnes, John B. Tucker, Joseph Tucker, Joseph Barnes, Edward Tucker, George Tucker, Lee Edmonson, Jackson Glenn, Casey Glenn, Robert Tucker, and Kizh Herrea, Lindsey Williams, and their families.

"John C. Glenn claims right for himself, wife and son, and for their daughter and her husband and two children, as the grandson of Abigail Rogers, a half-blood Choctaw, who, as is alleged, married John Glenn, a white man. The other parties are understood to be the grandchildren of Abigail Rogers and John Glenn.

"By agreement between counsel the cases of the claimants through descent from Abigail Rogers were considered by the Choctaw council as one case. From the evidence it appears that Abigail Rogers was of Indian blood, undoubtedly part Choctaw, with possibly an admixture of Cherokee blood; that she married John Glenn, a white man, and is the ancestor of the several claimants.

"None of the witnesses have any knowledge of her father and mother, except Mary Barnes, who testifies that the old folks said that the former was part Cherokee. She also states Abigail's father lived with Abigail's mother until Abigail was born, when he took the latter to the Cherokee Nation, where she grew up, married John Glenn, who took her to Mississippi. After her husband's death, and probably soon after the Choctaw emigration she, with others of the family, started to join the nation, as is alleged, but died in Arkansas about 1840. The descendants finally reached the Choctaw Nation some thirty years later (in 1870). None of the family appear to have drawn annuities as Choctaws, although it is claimed in certain affidavits that they did. Such testimony, however, is worthless, and several of the claimants admit that the Glenn family got no money as Choctaws in any way. The claimants do not assert that Abigail Rogers was ever recognized as a member of the Choctaw tribe, entitled to all the rights and benefits accruing from such membership, although certain of the witnesses set up this claim on their behalf.

"I do not think that the evidence shows that Abigail Rogers was a recognized member of the Choctaw tribe, although it does show, as before stated, that she was of Choctaw descent. Her descendants have intermarried among themselves or with white people, but not with members of the Choctaw tribe. They have claimed and exercised the rights of United States citizens in various States. While the mere possession of Choctaw blood is a reason which might and probably should influence the Choctaw Nation to admit them to citizenship, I do not think it sufficient to justify the Department in compelling the nation to take such action. I recommend that the action of Agent Owen affirming the decision of the Choctaw council be sustained and that the appeal be dismissed."

Subsequently the papers accompanying this report were informally withdrawn, and upon the submission, November 16, 1888, by Mr. Van R. Manning, attorney for the claimants in the Glenn, Tucker *et al.* case, of a brief in their behalf, holding that they were improperly made to appear in the capacity of petitioners instead of defendants as they should, appearing as they do before the committee of the Choctaw council only because they were served with a notice so to do, the then Commissioner of Indian Affairs, Mr. Oberly, addressed a letter dated March 5, 1889, to the Union agent, as follows, viz:

"Referring to the case of the Choctaw Nation against Glenn, Tucker *et al.*, claimants to Choctaw citizenship, appealed by the defendants to the United States Indian agent, and transmitted among others to this office, with your letter of August (September 2), 1887, I have to say that in view of the incompleteness of the record, and apparent want of regularity in the proceedings of the council, I am unable to determine that any regular or legal proceedings have been had in this case, and I must therefore, upon this record, sustain the appeal from the judgment of the agent, which sustains the action of the Choctaw Nation."

It will be observed from a letter of April 11, 1890, from the Union Indian agent, Leo E. Bennett, esq. (inclosed herewith), that the claimants construe this letter as conferring citizenship upon them. On the other hand, it is claimed by the Choctaw Nation that the said letter can not be so construed, holding that under the rule of procedure in such cases, prescribed by the Secretary of the Interior in his letter of March 15, 1884, to the Commissioner of Indian Affairs, the finding of the United States Indian agent in a particular case can only be reversed or confirmed by the Secretary of the Interior, or by his authority; that the Commissioner of Indian Affairs has no other duty in connection with claims to Choctaw citizenship than to transmit, with his recommendation thereon, the evidence and findings of the agent in each case, for final consideration and determination by the Department, and that the action taken by Commissioner Oberly in his said letter of March 5, 1889, was without authority and should not be allowed to affect the status of the case as pending transmission from this office for Department action.

Without discussing the question as to the power of the Commissioner of Indian Affairs under the existing plan of procedure in these cases to overrule the findings of the agent in the Glenn, Tucker *et al.* case, and dismiss it from the consideration of

the Government on the ground of irregularities appearing in the record, I have the honor to inclose herewith the entire record in the case for your consideration and determination—

(1) As to whether the action taken by the Commissioner of Indian Affairs in his letter of March 5, 1889, to the United States Indian agent was with proper authority and operates as remanding the case for proceedings *de novo* before the Choctaw authorities; and if not,

(2) As to whether, upon the record presented, which was discussed in office report of October 4, 1887, before referred to, the claimants, Glenn, Tucker, *et al.*, have established their rights to citizenship in the Choctaw Nation.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., May 20, 1890.

Opinion in the case of the Choctaw Nation *vs.* Mrs. S. A. Donald and family and G. W. Crutchfield and family.

Upon the demand of Hon. B. F. Smallwood, governor of the Choctaw Nation, in a communication dated September 24, 1889, a notice was issued from this office to the defendants to remove from the Choctaw Nation as intruders, or show cause within twenty days from the date of service thereof why not.

The Choctaw Nation, through its governor, represents to this office that the defendants herein named were claimants to Choctaw citizenship, and that their claims were rejected by the general council of the Choctaw Nation. (See bill No. 62, passed and approved November 6, 1884, a certified copy of which is filed in this office.)

In reply to the above mentioned order of this office, Mrs. S. A. Donald sets up that she is a citizen of the Choctaw Nation; that she came from the Choctaw Reservation in the State of Mississippi in the year 1867; that she was admitted to citizenship in the year 1869, having made application to the county court as required by the law of the Choctaw Nation at that time, and that she has enjoyed all the privileges of Choctaw citizenship since the said year of 1869; that she has never at any time since 1869 been called upon to produce proof to establish her rights in said nation, nor has she at any time made application for citizenship, except as stated in the year 1869; that her husband has held the office of deputy sheriff in the county in which they resided, has served as a juror several times; that her son, D. O. Donald, was called out to serve in the Choctaw militia and received his pay for the same; that both her husband and son were voters at Choctaw elections during their lives, and were permitted to buy and improve farms in the Choctaw Nation; that permits were granted to them for non-citizen renters, as being bona fide citizens of said nation; that her right was never questioned until after the burning of the Scullyville court-house, and with it, the records showing the act of the county court admitting them to citizenship.

To substantiate her allegations Mrs. Donald offers the affidavits of W. W. Folsom and Arnold Folsom, who are well known, intelligent, and reliable Choctaw citizens, who state that they have known Mrs. Donald since 1867 and 1868; that they know she was admitted to citizenship in the year 1869, which act was duly recorded as required by the Choctaw laws; that they know Mrs. Donald has never made application to the Choctaw council for citizenship, nor has she ever been required by said council to appear or produce her proof, nor was her right disputed until after the burning of the records and private papers in the fire which destroyed the Scullyville court-house, in the year 1868, and that the privileges enjoyed in the Choctaw Nation by Mrs. S. A. Donald and her family were such as were accorded to none but Choctaw citizens.

Mrs. M. J. Bell's statement corroborates those of W. W. Folsom and Arnold Folsom. She further states that Mr. S. A. Donald served several times as sheriff of Scullyville County, and that D. T. Donald, a son of Mrs. S. A. Donald, served as a militiaman in the service of the Choctaw Nation, also an overseer of the public roads, and that Mrs. S. A. Donald's children were educated in the public schools of the Choctaw Nation.

Mrs. S. A. Donald's allegations are further supported by the affidavit of G. W. Crutchfield, who married a daughter of the defendant in the year 1885, and having been married according to the Choctaw marriage laws, thereby becoming a citizen of said nation, and enjoyed privileges as such until the year 1888, when he was declared an intruder and his removal demanded by said nation. Mrs. Donald also submits as evidence to support her claim a notice of appointment of overseer of public roads, issued to her son, D. T. Donald, in the year 1880, and sundry permits issued to her as a citizen of the Choctaw Nation to employ non-citizen laborers; also one to G. W. Crutchfield,

The above testimony was taken and the case considered under notice to the Choctaw national attorney, who has presented no testimony in behalf of the Choctaw Nation.

From the foregoing it appears that Elizabeth Donald, wife of S. A. Donald, in 1869 made application to the county court of Scullyville County, Choctaw Nation, for citizenship in said nation, and after considering her claim she was granted all rights, privileges, and immunities of citizenship in said nation by said court as provided by the laws of said nation, and enjoyed the same for a period of nineteen years.

It appears from a certified copy of an act of the Choctaw council, approved November 6, 1884, that S. A. Donald and wife, applicants for Choctaw citizenship, were rejected by the committee on disputed citizenship cases as being a "white man and white wife."

It appears from the testimony submitted by Mrs. Elizabeth Donald that she has never, since 1869, made application for citizenship, nor is the testimony refuted by any in behalf of the Choctaw Nation, nor does the Choctaw Nation produce any evidence to show that the wife of the S. A. Donald, who was rejected by the act of council of 1884, as the white wife of a white man, is the Elizabeth Donald who was admitted to citizenship in 1869 as a Choctaw Indian by blood, or the Elizabeth Donald to whom the Choctaw national authorities have issued permits to employ non-citizen renters, whose husband and son were voters in the Choctaw Nation, and whose children were educated in the public schools of said nation, nor is any reason advanced why the removal of Mrs. Donald and her family was not demanded until nearly five years had elapsed since they were declared intruders by the committee on citizenship, and until after her husband had died, and the papers and records by which her citizenship had been established in 1869 had been destroyed by fire, during which time she had lived in uninterrupted and unquestioned enjoyment of the privileges of Choctaw citizenship.

A careful consideration of the evidence herewith submitted which is all favorable to the defendant, can lead to but one opinion that Mrs. S. A. Donald and her lineal descendants are Choctaw citizens and entitled to all the rights and privileges of such citizenship. The case is therefore decided in favor of the defendant, and this office must decline to take any steps looking to the removal of either Mrs. S. A. Donald and family or G. W. Crutchfield and family.

LEO E. BENNETT,
United States Indian Agent.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee Ind. T., May 21, 1890.

SIR: I have the honor to transmit for your approval an opinion in the case of Mrs. S. A. Donald, whose removal as an intruder has been requested by the Choctaw Nation.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., May 20, 1890.

DEAR SIR: I have the honor to report that under your instructions I have investigated the several matters complained of by Mrs. Henrietta Jennings in her letter to Governor Byrd, of the Chickasaw Nation, forwarded to you in Indian office letter (L. 5731, 1890), under date of April 10, and herewith submit my findings, together with the testimony taken at Wynnewood on the 15th instant.

All testimony was taken under oath and I examined all the witnesses brought forward by all the interested parties. The greater part of a day was consumed in the taking of this testimony, the character of which was such that I was unable to arrive at any clear conception of the situation or the location of the contested claims. I accordingly secured a team and drove over the grounds and personally inspected all the places in dispute, and at the same time several other disputed claims now pending before the office.

The first cause of complaint set up by Mrs. Jennings is that against the Gulf, Colorado and Santa Fé Railway Company. Relative to this matter Mrs. Jennings states that when the said line of railroad was constructed two years ago, the representatives of said road paid her the sum of \$25 for damages done to her claim, that she demanded

\$50 at the time, but took the amount offered in preference to nothing or a contest in the courts; that this sum of \$25 was paid for the right of way of the main track; that the said company have since staked off land, a part of her claim, for a side-track and have paid her nothing for the damages sustained thereby. The facts in the case are substantially as stated by Mrs. Jennings, *i. e.*, the railroad company have staked the ground for a side-track, and as all the evidence taken in this case indicates that Mrs. Jennings's claim to the right to occupy this ground is prior to that of any other person and is recognized as legal under the laws of the Chickasaw Nation, she would seem to be entitled to receive damages for such intrusion, said damages to be assessed in the manner provided in the act of Congress granting the said railway company a right of way through the Chickasaw Nation, and the use of certain grounds for station and side-track purposes.

Relative to Mrs. Jennings's complaint against Zack Allen and certain other Chickasaw freedmen for intrusion, it appears that when Mrs. Jennings located her said claim in 1883 Zack Allen had a farm inclosed and partly cultivated north and east of Mrs. Jennings's house. Gloster Allen had a smaller farm south of Zack Allen's said farm and east of Mrs. Jennings's claim; that when Mrs. Jennings fenced the part of her claim now in dispute Gloster Allen and other freedmen tore down the fences claiming that Mrs. Jennings had intruded upon their rights. This was afterwards settled satisfactorily by the sale of said Gloster Allen's entire interest in said place to a Chickasaw who now has possession, and between whom and Mrs. Jennings no controversy exists.

Upon the north line of Mrs. Jennings's claim, as laid out in 1883, was a small improvement of about one-half acre of fenced and broke ground, on which he had built a small hut owned and occupied by another negro, Henry Smith, who supported himself and family by hiring. This he afterwards sold to Zack Allen for a small consideration, and it is by claiming the limit allowed by the Chickasaw laws that Zack Allen claims the land in dispute with Mrs. Jennings. He alleges that Smith made the improvements before Mrs. Jennings came there. Mrs. Jennings admits that it is true and that her line was run adjoining his with Smith's consent, and that it was not his intention to use more land than he had already fenced. By his purchase of Mr. Smith's improvements Mr. Allen expected to hold all the land within the scope of the limits allowed under the Chickasaw laws, which would extend to his (Allen's) original claim on the east to the claim of John Tutter, another negro, on the north, and take in all or nearly all of this claim of Mrs. Jennings on the south. It appears, however, that he made an arrangement with Tutter by which any improvements or additions which he might make to the Smith place should be made on the south side and not to interfere with his (Tutter's) improvements.

Article 4 of the treaty of 1866 with the Choctaws and Chickasaws provides that "all laws shall be equal in their operation upon Choctaws, Chickasaws, and negroes." It also provides that "they (the freedmen) shall be entitled to as much land as they may cultivate for the support of themselves and their families in cases where they do not support themselves by hiring, not interfering with existing improvements." In the case under consideration Mr. Smith supported himself and his family by hiring, and was consequently not entitled under the treaty to the use of any of the Chickasaw domain or, at the most, to no more than sufficient ground upon which to erect a home. Hence Mrs. Jennings did not intrude upon Mr. Smith, although hers was a later claim, and when Mr. Allen purchased these improvements of Mr. Smith he gained a right to no more than Mr. Smith's interest, and as Mrs. Jennings's claim was made before the time of such purchase he could not extend the improvements made by Mr. Smith without interfering with "existing improvements," which is a violation of the treaty. And again, Mr. Allen is a single man, and as he already has a splendid and productive farm containing about 75 acres of land under fence, only part of which he has put in cultivation, it appeared to me he had all the land he is entitled to hold under treaty provisions. I accordingly instructed him to make no further improvements upon the piece of ground in dispute, and respectfully recommend that he be notified to remove those already made, viz, posts set ready for fencing. The whole of Mr. Allen's farm can be seen from any given point and is rich, productive land. I endeavored to impress upon him and several of his fellow colored men, all of whom were complaining of unkind treatment, intrusion, etc., the fact that they would have more than enough for their support if they would carefully cultivate what they had already inclosed, instead of spending their time in jumping and intruding upon their neighbors' claims. They find it difficult to reconcile the two provisions of the fourth article of the treaty of 1866 hereinbefore quoted.

Relative to the complaint made against Mr. I. A. Taylor in Mrs. Jennings's letter the facts are as they appear, that in 1887 one A. B. McCoy, a non-citizen, leased of Mrs. Jennings a certain piece of land claimed by her, upon which he erected a store-house and dwelling, and for which he paid the sum of \$40 per annum as rent. In November, 1888, Mr. McCoy sold the buildings to Mr. Taylor, who is also a licensed trader, for the sum of \$1,500, and they are now occupied by him as such. After Mr. Taylor had

taken possession of said premises Mrs. Jennings demanded the payment of rent for the ground upon which they stood; Mr. Taylor refused to pay for the reason that Mr. McCoy had assured him that Mrs. Jennings had no claim to the premises. Mr. Taylor produced letters from Mr. McCoy setting forth this fact, and held that as Mr. McCoy had become a citizen of the Chickasaw Nation by marriage, he could settle any controversy with Mrs. Jennings in the Chickasaw courts. He contended further that, as he was a licensed trader and paid a tax to the Chickasaw Nation for the privilege of trading therein he was entitled to occupy so much of the Chickasaw domain as was necessary for the erection of the necessary buildings to transact a legitimate trader's business. After carefully considering the evidence submitted it appears that Mrs. Jennings's claim to all of the north half of the present town site of Wynnewood has been recognized as legal under the Chickasaw laws, and all persons who occupy building lots thereon have paid her for a relinquishment of her claim or an annual rental for the occupancy of the same. It also appears from Mr. McCoy's sworn statement filed in this case, that he paid an annual rental for the use of the ground upon which he erected the buildings now occupied by Mr. Taylor, and that Mrs. Jennings had never relinquished her right to any one. I accordingly informed Mr. Taylor, that as a licensed trader he did have the right to occupy and use a sufficient quantity of Chickasaw land on which to conduct his business, but that if he occupied the land to which another had a prior claim, he would be required to pay a reasonable price for the privilege, and that his predecessor had acknowledged Mrs. Jennings's right to the land he now occupied by his payment of rent for the same. Mr. Taylor assured me that he had been misled by Mr. McCoy and was perfectly willing to make satisfactory terms with Mrs. Jennings. I accordingly brought about a meeting between Mr. Taylor and Mr. R. W. Jennings, who acted for his wife, and in my presence Mr. Taylor offered to sell to Mrs. Jennings all his buildings and other improvements at a reasonable price or to pay her a reasonable price for her interest in said piece of ground. Mr. Jennings said he was not at liberty to accept either proposition then, that he could not buy and did not want to sell. Mr. Taylor could not or would not make any further proposition. Mr. Taylor's proposition appeared to me to be a fair one. Allowing the price paid Mrs. Jennings by Mr. Foreman and others for lots on the same street to be a fair price, \$40 per year is an exorbitant rent for the ground occupied by Mr. Taylor, while it appears but a small price when considered alone.

In view of the fact that Mr. Taylor has so far receded from his position as to recognize Mrs. Jennings's right to the ground, and to offer to sell his interest or to purchase her interest in the premises for a fair and reasonable compensation, it would seem that he has done all that could be expected of him toward effecting the final settlement of this affair as contemplated in the Department instructions under which this investigation was held.

Very respectfully,

FRED MORRIS,
Clerk.

LEO E. BENNETT,
United States Indian Agent, Union Agency, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., May 24, 1890.

SIR: I have the honor to inclose the report of Mr. Fred Morris, clerk, together with the evidence taken in the investigation of the complaint of Mrs. Henrietta Jennings *vs.* certain parties trespassing, etc., transmitted in Indian Office letter, April 10, ultimo. (L. 5731, 1890.) I have considered the evidence and Mr. Morris's report, and approve the same.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

MUSCOGEE, IND. T., May 21, 1890.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.:

Samuel G. Lucas states that he intermarried on the 7th day of August, 1887, with Ella Hickman, who was the widow of H. Hickman, deceased. Said Hickman was a

Choctaw Indian by blood, and said Ella Hickman by virtue of said marriage with said H. Hickman acquired a right in the said Choctaw Nation. Said Ella Hickman had one child by said H. Hickman—a girl child now about four years of age and still living and who, through her mother as aforesaid, is a citizen of the Choctaw Nation and entitled to all the rights, privileges, and immunities as such citizen.

The affiant, Samuel G. Lucas, states he was married to said Ella Hickman according to the laws, customs, etc., of the said nation, and has since his marriage continuously resided therein; but he states further, that on the 5th day of this month he was notified to appear before the Indian agent at Union Agency, Ind. T. (which agency has jurisdiction of the said Choctaw Nation, Indian Territory), and show cause why he should not be held as an intruder in said nation, etc.

Affiant states that said agent allowed him time to answer said charge of intrusion, and he submits the facts of his case for a ruling thereon by the honorable Commissioner of Indian Affairs or, if need be, for a full investigation by and through the agent of Union Agency.

Affiant states that he has always complied with the laws of said nation and is a law-abiding citizen of the same, and that by virtue of his marriage to the mother of an Indian child by blood of which child he stands in *loco parentis* so to speak, he ought not to be separated from his family or be expelled from the limits of said nation, but that he ought to be permitted or allowed to remain peaceably in said nation without interference on the part of the Choctaw authorities.

S. G. LUCAS.

Sworn to and subscribed before me this 21st day of May, 1890.

SAMUEL EDMONSON,
Notary Public.

And furthermore, his wife has a claim in the net proceeds money and she has failed to get her money. Give me particulars please.

S. G. LUCAS.

THE CLARENDON,
Washington, D. C., May 24, 1890.

DEAR SIR: I have the honor to request copies of letters of Indian Agent Bennett, of Union Agency, of December 26, 1889, January 4, 1890, and February 10, 1890, relating particularly to the arrest of Captain La Flore, and generally to the question of intruders; also your office letter of January 28, 1890, to the Secretary of the Interior in reference to the above subjects.

Yours, very respectfully,

J. S. STANDLEY,
Choctaw Delegate.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, May 27, 1890.

SIR: In compliance with request contained in your letter of the 24th instant, I inclose herewith copy of letters of December 26, 1889, January 4, 1890, February 10, 1890, from Agent Bennett, of the Union Agency, and of office letter to the Department of January 28, 1890, relative to the arrest of Captain La Flore.

Very respectfully,

R. V. BELT,
Acting Commissioner.

J. S. STANDLEY, Esq.,
Washington, D. C.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., December 26, 1889.

SIR: I have the honor to transmit for your consideration, and to request that you direct the proper reply to the inclosed communication from Charles La Flore, captain

United States Indian police. The questions asked by Captain La Flore are quite pertinent. Justice to the man and the interests of the service seem to demand prompt instructions, and I respectfully urge your early action in the premises.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

UNITED STATES INDIAN SERVICE,
Union Agency, February 10, 1890.

SIR: Captain Charles La Flore, United States Indian police, is quite anxious to hear from the Department in response to his communication transmitted to you in my letter of December 26, 1889.

Bearing upon the subject matter of authority, I desire to also ask your early attention to agency communication of January 4, 1890, transmitting letter from Captain La Flore relative to his arrest for having disarmed a certain notorious gambler, fakir, and horse thief, known as Doc Foster. The pistols (two of them) taken from said Foster were turned in to this agency about December 23, or immediately following their capture. Captain La Flore is under bond awaiting trial, and is necessarily solicitous as to whether he is to have the co-operation of the Indian Office in any way.

It does not appear that I can add any to the force of the matter thus presented, but respectfully refer you to Agent Tufts' letter dated June 18, 1884, and Department reply (C 11711-1884) dated June 28, 1884, to Department letter of July 9, 1884 (C 11526 and 12135-1884), and Agent Tufts' reply dated July 14, 1884, to Department letter (L 33027-1886) dated December 18, 1886; and Agent Owen's replies, dated January 3 and 7, 1887, to Department letter dated January 15, 1887 (L 778-1887), to Owen's letter of February 14, 1887, and Department reply (L 4597-1887) dated March 7, 1887.

These evils exist to-day in a worse form than ever. They ought to be suppressed. I believe it to be my duty to close up the houses and to remove the offenders. But I hesitate to act because I have no authority, neither to effect removal nor to incur expense, which will be considerable. If I had the authority that was granted Agent Tufts by the Department, under date of June 28, 1884, (C 11711-1884) to apply to prostitutes, gamblers, desperadoes, and like refugees from the States, and had power to enforce the authority, a reaction would take effect in this country, and it would be purged of these demoralizing agencies.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

UNITED STATES INDIAN SERVICE,
Union Agency, April 28, 1890.

SIR: Referring to agency letter of January 4, 1890, reporting arrest of Capt. Charles La Flore, I have the pleasure to advise you that the case against Captain La Flore, *et al.* was ignored by the grand jury.

Very respectfully,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

UNITED STATES INDIAN SERVICE,
Union Agency, Muskogee, Ind. T., October 1, 1889.

SIR: I have the honor to inclose herewith for your consideration a communication from Governor William L. Byrd, of the Chickasaw Nation, relative to the distribution of notices addressed to intruders and other persons who violate the Chickasaw laws. There are several thousand intruders among the Chickasaws, there being over one thousand in Pickins County alone.

I have very little faith in the efficacy of such notices, as these parties have been threatened a number of times with removal, but the threat has never been carried into effect. If an example was made by the removal of a score or two of those who refuse to pay permits, who hold cattle, who are obnoxious characters, or otherwise improper persons and intruders in the country, some attention would be paid by these parties to the laws of the country. When this agency simply threatens and fails to act, as has been the case for years, the trouble will not only continue but increase.

Should you deem it advisable to issue these notices, authority for the expense of the printing should be granted. I will be obliged if you will return Governor Byrd's letter and the inclosed notice.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October 14, 1889.

SIR: I am in receipt of your letter of October 1, transmitting a communication of September 10, 1889, from Hon. William L. Byrd, governor of the Chickasaw Nation, complaining of the presence of large numbers of intruders in that Nation, and requesting you to issue notices to these intruders to conform to the laws of the said Nation, etc., and stating that you have little faith in the efficacy of such notices, as these parties have been threatened with removal a number of times, but the threat has never been carried into effect, and that you think an example should be made by the removal of a score or two of those who refuse to pay permits, etc.

In reply I have to say that by letter of January 10, 1889, a copy of a letter of December 27, 1888, from the Secretary of the Interior, authorizing the removal of all persons found to be in the Chickasaw Nation without authority of law was transmitted to your predecessor, with instructions to take the proper steps to carry the same into effect. He was also advised that the War Department had instructed the proper military officers to furnish the necessary troops to assist him in removing the intruders complained of.

Instead of issuing the notices requested by Mr. Byrd, you will proceed to make the removals heretofore authorized by the Department, and as directed in office letter above referred to.

Governor Byrd's letter, with inclosure, is herewith returned as requested.

Very respectfully,

T. J. MORGAN,
Commissioner.

LEO. E. BENNETT, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., October 21, 1889.

SIR: I am in receipt of your communication of October 14 instant, relative to the removal of intruders from the Chickasaw country.

You call my attention to office letter of January 10, 1889, transmitting to my predecessor a copy of the letter of December 27, 1888, from the Secretary of Interior, authorizing the removal of all persons found to be in the Chickasaw Nation without authority of law. No communication dated January 10, 1889, from the Indian Office is on file at the agency, nor does the index to letters received show that such a communication was ever received. I do not find any letter since January last authorizing or directing the removals. I defer action in the matter until I can be furnished a copy of said letter of January 10, 1889, and a copy of letter of December 27, 1888, from the honorable Secretary of Interior, as referred to.

In the mean while I am having prepared lists of the intruders, so that their removal may be done in a systematical manner, and with as little cost as possible to the Government.

I have the honor to be, very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October 28, 1889.

SIR: In compliance with request contained in your letter of October 21, 1889, I inclose herewith a copy of office letter of January 10, 1889, transmitting a copy of a letter of December 27, 1889, from the Department authorizing and directing the removal of all persons found to be within the Chickasaw Nation without authority of law, and a copy of the said Department authority, it appearing that these papers are not on file in your office.

Very respectfully,

T. J. MORGAN,
Commissioner.

LEO E. BENNETT, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., October 28, 1889.

SIR: I have the honor to transmit herewith the papers in the case of Hocker, Green *et al.* They were submitted to Mr. Crossthwaite, examiner for the Department of Justice, who culled from them such extracts as he considered necessary in the case.

Mr. Crossthwaite informs me that in his investigation at Purcell he found an abundance of evidence to warrant a recommendation of the removal of Mr. Hocker from the official position he now holds. When the Department shall have received official notice of his removal as United States commissioner, orders should be issued for his removal from the limits of this agency.

If it be admitted that Mr. Amos Green as an attorney before the United States court at Muscogee may be considered a United States officer, he is not such an officer as provided for in the treaty, but an officer for the purpose of discipline only.

Mr. R. J. Love is a citizen of the Chickasaw Nation by marriage and, while I would not recommend his removal, I think he should be warned that complicity in further nefarious schemes of a similar nature will be followed by summary removal from the Indian country, as being an improper person to remain therein.

I would respectfully recommend that, if possible, orders be issued for the removal of Hocker, Green, and their fellow conspirators; that they may be removed at the same time and by the same force used in the execution of orders contained in L. 27953-1889, relative to the removal of intruders from the Chickasaw Nation.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

LEXINGTON'S LOTS—LOTS HELD SIX MONTHS FOR UNKNOWN PARTIES AND REFUSED MEN WHO WERE WILLING TO BUILD ON AND IMPROVE THEM—THE TOWN'S PROGRESS RETARDED BY SCHEMERS.

Lexington is not and never was a people's town site. Although called a government town-site, and entered as such, it is now and ever has been from the beginning run by one man and his claquers. To begin with, the town was conceived and platted on paper by one Amos Green before the opening of the Territory. On April 22 the desired land was secured and the survey of the same at once commenced, and at the same time the registration of lots also commenced. Every man who presented himself was given two lots, and his name taken, without address, and a card was issued to him bearing the number of lot and block. In this way some two thousand of the most desirable lots were taken. The price of registering these lots was fixed at \$1 each, but in three-fourths of the cases the parties did not pay (so our ex-treasurer now informs us), yet they have been allowed to hold the lots six months on a promise to return some time in the distant future, and the city has protected and guarded those lots above all others. In this way the town's progress has been retarded, and will be as long as it is continued. Men who have come here with good intentions—men who would have made citizens that the city would have been proud of to-day—have one and all been denied lots on which to locate. Lexington at the beginning had as bright prospects as any town in the Territory, and has yet if it could be got out of the clique's hands and put under the management of good enterprising men. Towns all around Lexington were entered and filed at the same time as this, and as

Government town-sites, but in no case were they allowed to hold lots over sixty days without improving them. Under this kind of management these towns have developed into flourishing cities. It is plainly evident to all who have taken trouble to look into this matter that there is a deep-laid scheme by the first promoters whereby they are aiming, if successful in their plans, to gobble up the greater portion of this town in the end, and it is now time the people get to work and nip these fine plans in the bud before it is everlastingly too late.

There are times in the lives of impertinent and imposing people when they get justice meted out to them. We are sorry to say that a resident of our town lately became mixed up in a little affair for which he got nicely reprimanded. This man answers to the name of Amos Green, and styles himself "Judge" Amos Green. He being the only lawyer Lexington has had as yet he has of late got to thinking that he was about the only one in this part of the Territory, and the other day, while depositions were being taken in Judge Hocker's court at Purcell, this wily fellow had the impudence to insult his worthy colleague, Lawyer Harris, of Gainesville, whereupon it was immediately resented and he was nicely slapped on both cheeks and addressed by his more popular name of hoary-headed s— of a b—.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, November 8, 1889.

SIR: Referring to Department letter of October 12, 1889, transmitting certain papers in the case of Hocker, Green, and others, I have the honor to inclose herewith, for consideration in connection with the matter, a report of October 23, 1889, from agent Bennett, returning said papers which were sent him by this office for the use of an examiner of the Department of Justice, who was engaged in making an investigation to determine the connection of Mr. Hocker with the irregularities complained of.

Very respectfully, your obedient servant,

R. V. BELT,
Acting Commissioner.

30000 30000 30000
The SECRETARY OF THE INTERIOR.

[Paine & Ladd, attorneys and counselors at law, 412 Fifth street.]

Washington, D. C., November 13, 1889.

DEAR SIR: In compliance with the instructions of the Governor of the Chickasaws, conveyed in a letter of November 7, a copy of which is herewith inclosed, I have the honor to call the attention of the Indian Department to the case of the intruders who have not yet been removed from the Chickasaw Nation, and to express the hope that it may be practicable for the Government to take early action in this matter.

Very respectfully,

H. E. PAINE,
Attorney Chickasaws.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

EXECUTIVE DEPARTMENT, CHICKASAW NATION,
Tishomingo City, Ind. T., November 7, 1889.

DEAR SIR: This office several months since furnished the United States Indian agent at Union Agency a list of United States citizens who are intruders in this Nation, with request that the agent take action and have the intruders removed, and as sufficient time has been given the agent to act, and he has failed to do so, therefore I request you to call the attention of the Secretary of the Interior to the matter and request him to take action as soon as convenient.

Very respectfully,

WM. L. BYRD,
Governor.

General H. E. PAINE,
Washington, D. C.

CHOCTAW AND CHICKASAW NATIONS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS.

Washington, November 30, 1889.

SIR: In reply to your letter of November 13, 1889, transmitting a copy of a letter from Hon. W. L. Byrd, Governor of the Chickasaw Nation, relative to intruders in that Nation, I have to advise you that the Union Indian agent has been, by a letter of even date herewith, furnished with a copy of your letter and its inclosure, with instructions in the premises.

Very respectfully,

T. J. MORGAN,
Commissioner.

H. E. PAINE, Esq.,
412 Fifth street N. W., Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,

Washington, November 30, 1889.

SIR: Referring to previous correspondence relative to the removal of intruders from the Chickasaw Nation, I enclose herewith copy of a letter of November 13, 1889, from H. E. Paine, esq., of this city, transmitting copy of a communication from Hon. William L. Byrd, governor of said nation, in which he complains of your delay in executing the authority heretofore given by this Department in the premises.

Unless some sufficient reason not known to this office exists for a delay in this matter, action looking to the removal of all intruders from the Chickasaw country as authorized by Department letter of December 17, 1889, should at once be taken.

Very respectfully,

T. J. MORGAN,
Commissioner.

LEO. E. BENNETT,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,

Limestone Gap, December 11, 1889.

DEAR SIR: I respectfully request your consideration of the following facts and such information or instruction as you may be inclined or able to give upon the matter.

It is a well known fact that the numbers of whisky-peddlers, horse thieves, highway robbers, and fugitives from justice that are coming into the Territory is rapidly increasing, and that for self-protection this criminal class have organized bands and that they cover a large territory in their operations, having their rendezvous and relay stations, and that to suppress crime, whisky selling, etc., under these conditions it requires a large force of officers with horses and arms. And, as people banded together in the prosecution of unlawful business, and armed and equipped for fight, do not hesitate to resist officers, I desire to know in behalf of the men under my charge, as well as for my own interest in the matter, how far the officers would be sustained by the Department and the laws of the United States should a fight occur and one or more of these criminals lose his or their lives, and should an officer meet resistance in the discharge of his duty when serving orders issued by the office, and in self-defense or in the enforcement of the order be compelled to kill. Would his action be sustained by the Department and by the United States laws.

How far can we, as Indian police, go, with the approval of the office and the Department, in complying with the many demands made upon us to deliver to State officials fugitives from justice. These are questions upon which I deem it an absolute necessity that we should receive full information. The demands upon our services are daily increasing, and the nature of the duties we are called upon to perform is more hazardous owing to the character and the increased number and the concerted action of the large numbers of all kinds of criminals who are coming into the Territory. These men are prepared to resist capture, and do not hesitate to take human life in so doing, would we as United States Indian police be warranted in meeting this force with equal force, and would we be sustained in the United States court, and are we as United States Indian police warranted in attempting their arrest, or have we any rights as officers that are to be respected. Are we such officers as under the law it is a crime to resist. For the same reasons the present force is too small, and the pay is inadequate to the services rendered. I do not think services of this character was contemplated as a part of the duties of the Indian police under the regulations placing the pay at the present nominal amount, and respectfully request that if possible an increase of pay be obtained.

I do not wish it to appear from the foregoing that we shirk our duty as officers. We are ready and willing, as we always have been, to do our duty at all times, but

owing to the conflicting jurisdictions and the necessity for decisive action where any action is taken, I deem it but just that we should know if the law will protect us in such action. As you will undoubtedly understand, this letter is prompted by the recent action of the Fort Smith court, which refused to issue a warrant in the case of Harris, who resisted Officer Whittaker with a shot-gun and revolver.

Very respectfully,

CHAS. LA FLORE,
Captain United States Indian Police.

LEO E. BENNETT,
United States Indian Agent, Muscogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, December 17, 1889.

SIR: I have the honor to transmit herewith a communication from A. D. Chase, of Ardmore, in the Chickasaw Nation, which contains much that is true as to the existing state of affairs in that locality. It is one of many appeals which reach this office from all parts of the Chickasaw Nation where whisky selling and gambling and lawlessness of all kinds is rapidly increasing.

A tide of immigration is setting toward this country, and in many cases intruders openly refuse to pay permits, or remove, claiming that the country is to be opened to settlement by the whites. With the limited force at my command I am powerless to render any effective resistance, and if removed, as Mr. Chase says in his letter, these intruders "beat the officers back."

The police connected with this agency are good and efficient officers, vigilant and faithful in the discharge of their duty. Within the past three days the spilling of over 100 gallons of whisky and a sufficient quantity of alcohol to serve as a basis of 300 or 400 gallons more has been reported to this office, but for all that, it can not be denied that the introduction of whisky is increasing, and the law-breakers, owing to their increased numbers and the absence of any sufficient force to suppress them, are becoming more defiant and open in their operations.

I believe it is a fact that there is no man so low, no criminal so base, that he can not find among the citizens of any of the five nations comprising this agency some one who is willing to indorse him and shield him from the consequences of his wrongdoing, or who would indorse him as a law-abiding, hard-working, honest man. While the Chickasaws themselves are in a measure responsible for the presence in their country at this time of a large number of intruders, it is no less the duty of the Government to protect them in their rights; and if, for the reasons stated in office letter A 35364-89, it is impossible to furnish this agency with a greater number of Indian police than at present allowed, I would respectfully suggest that soldiers be stationed at some of the principal points in the Nation (as is done in Oklahoma) "to prevent the introduction of persons and property into the Indian country," as provided in the third article of section 2150, Revised Statutes United States.

Unless this or some similar action be taken, I believe the relief afforded by carrying out the instructions contained in office letter L 27935, dated October 14, in which you direct the removal of intruders by military force will be but temporary and of little benefit.

I do not hesitate to say that the means at hand for the suppression of crime are inadequate to the requirements of the present time. If, owing to the changed condition of affairs, the commission of that which constituted a violation of the law at the time when the laws were enacted, has become so common that it is recognized as right because customary, the laws should be changed to meet the demands of the present day, or until the laws shall be so changed the means to enforce them should be increased to meet the necessities.

Section 2148, Revised Statutes United States, is inoperative from the fact that owing to their irresponsibility it can not be enforced against the class of people to which it applies, and if Congress would pass a law providing for imprisonment where persons returned after being removed and providing imprisonment as a punishment for a failure to comply with an order to remove after having been declared an intruder by the agency, and provide some means of enforcing the provisions of such a law it would deter many who return from so doing, and would render the removal of many others possible.

I feel that I can not too strongly urge the enactment by Congress of such laws as will furnish a speedy relief to the embarrassing and tangled condition of affairs now existing in the five nations comprising this agency.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

[Grove E. Chase, Permit Collector for Pickens County, Chickasaw Nation.]

ARDMORE, IND. T., December 14, 1889.

DEAR SIR: When Major Tufts was agent he ordered one Whit Hyden to leave the Chickasaw Nation for having cattle in the Nation contrary to law. He has returned to Ardmore and has been living in Ardmore several months. I asked him some time ago if he didn't want a permit but he said that he didn't as he was not going to stay here but a short time. He has been in this country for several years and I doubt whether he ever took out a permit. He had cattle here, in connection with one Jackson, who also lives here, I think without a permit. He was also in partnership with one John Means, who is still in the country and is considered a very bad man.

Mr. Hyden would be a most excellent subject to pay the \$1,000 fine for returning to the Nation after being ordered out by the agent.

We were very much disappointed that you didn't pay us a visit on the 11th. You have only to be here but a short time to see how things are going. Gambling houses are run here day and night openly. There is no day but what can be seen drunken men on the streets. Every Sunday parties are made up here to hunt all day and there is a continuous fusillade all day long and they don't stop for fields or private property. About every night there is shooting. Non-citizens openly carry revolvers and there is no law or contract here. The national officers set the example. The sheriff, Chas. Mull, at the last court was so drunk he could not walk and some one had to hold him up. A few days ago Wilson Parker, a constable, was here drunk and endangering the lives of people by shooting off his pistol. The non-citizens laugh at the idea of being put out of the country as they say that they will beat the officers back.

They are making their claims. I am credibly informed, and things national and generally are going to the devil as fast as they can.

Ardmore is doing a tremendous business. Over 300 bales of cotton a day obtained and there are a great many people here who pay no tax.

Respectfully,

A. D. CHASE,
Dep. P. P. C.

Hon. LEO E. BENNETT.

WAR DEPARTMENT,
Washington City, December 31, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th instant inclosing copy of a communication of the 15th instant, and accompanying papers from the Commissioner of Indian Affairs, relative to the presence of a large number of white men in the Chickasaw Nation without permission and in violation of the Chickasaw law, and requesting that orders be given the proper military officers to furnish sufficient troops, should their assistance be called for, to the Indian agent at the Union Agency, Indian Territory, to enable him to carry out your instructions to remove from the limits of the Indian Territory all citizens of the United States residing in the Chickasaw Nation without lawful authority or permission.

In reply I beg to advise you that the Major-General Commanding the Army has been instructed to carry out the wishes of the Department of the Interior in this matter should the assistance of the troops be deemed necessary.

Very respectfully,

WM. C. ENDICOTT,
Secretary of War.

The SECRETARY OF THE INTERIOR.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., January 4, 1890.

SIR: I have the honor to transmit the inclosed communication from Capt. Charles Lafore, United States Indian police, relative to his arrest on a warrant issued by United States Commissioner Kirkpatrick, of Paris, Tex., on a charge of robbery, in having taken from one "Doc" Foster, a notorious gambler and fakir of the Chickasaw Nation, two revolvers on the occasion of the move against these gamblers, ordered by me on December 19, 1889, and reported to you on the same day.

I also inclose a communication dated Gainesville, Tex., December 31, 1889, from Deputy Marshal Heck Thomas to Captain Lafore, in which it is stated that Jim Hughes, Horace Gannaway, Richard Gannaway, Earnest Harden, John Scott, J. Maxey, Red Wilson, Ben Burton, Jim Turubo, J. Campbell, and Sam South, all gamblers and "sure thing" men (alias thieves), have re-opened their games.

I am further informed that warrants have been issued by United States Commissioner Kirkpatrick, of Paris, Tex., against Deputy Marshals Thomas, Cabell, and Ride-nour, who ably assisted Captain Lafore in the matter at Ardmore, and they too are by this time probably under arrest and en route to Paris.

Now, sir, I submit to you that it is not right, it is not just, that officers of the law should be annoyed and their liberty jeopardized because of a lawful act, and I believe it to be my duty to ask and to demand, and the duty of the Department to put an end to this constant wrangle as to the rights, powers, privileges, and duties of the Indian police attached to this Indian agency.

Revised Statutes of the United States, section 2114, reads: "The President is authorized to exercise general superintendence and care over any tribe or nation which was removed upon an exchange of territory under authority, etc., * * * and to cause such tribe or nation to be protected at their new residence against all interruption or disturbance * * * from any other person or persons whatever."

Section 2147 says: "The Superintendent of Indian Affairs and the Indian agents and subagents shall have authority to remove from the Indian country all persons found therein contrary to law; and the President is authorized to direct the military force to be employed in such removal."

Section 2149 reads: "The Commissioner of Indian Affairs is authorized and required, with the approval of the Secretary of the Interior, to remove from any tribal reservation any person being therein without authority of law, or whose presence within the limits of the reservation may, in the judgment of the Commissioner, be detrimental to the peace and welfare of the Indians."

Section 465 reads: "The President may prescribe such regulations as he may think fit for carrying into effect the various provisions of any act relating to Indian affairs, etc."

Section 463 reads: "The Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, and agreeably to such regulations as the President may prescribe, have the management of all Indian affairs and of all matters arising out of Indian relations."

The honorable Attorney-General, in VII, Opinions, 453, held: "As a general rule the direction of the President is to be presumed in all instructions and orders issuing from the competent department."

Referring to *Wilcox vs. Johnson* (13 Peters, 498), "The President speaks and acts through the heads of the several departments in relation to subjects which appertain to their respective duties."

Section 2058, Revised Statutes, reads that "Each Indian agent shall, within his agency, manage and superintend the intercourse with the Indians agreeably to law, and execute and perform such regulations and duties not inconsistent with law as may be prescribed by the President, the Secretary of the Interior, the Commissioner of Indian Affairs."

Are these and other sections of the Revised Statutes relative to the government of the Indian country obsolete? Are these laws and the regulations of the Interior Department governing Indian relations paramount in this Indian country, or are they secondary in their nature and only to be enforced with the approval of one or the other of the four United States courts which exercise jurisdiction within the limits of Union Agency? Is there any good and sufficient reason why the operation of this agency, in the discharge of its duty in protecting the Indians against outlawry and robbery perpetrated by non-citizens unlawfully residing in the Indian country, should be hampered and obstructed by the interference of either of the four courts above referred to? It is a well-known fact that these courts, from jealously guarding their present jurisdiction and grasping for more, have engaged in an unseemly warfare with each other, which has in several instances led them to exceed their authority and caused clashing which are outrageous upon the people and a disgrace to the judicial system of the Government. There is nothing in the laws governing the intercourse with the Indians which I can construe to debar me from acting independent of the courts in the discharge of my duties as an officer of the Indian Department, nor is there any law which I can construe to give to any of these courts the power to call me or my officers to an account for my lawful actions in protecting the Indians under my charge, "against all interruption or disturbance from any person or persons whatever."

I have heretofore written you upon these matters, as occasion seemed to demand, and as these letters remain unanswered, I beg leave to ask your attention to agency letters dated June 14, 1889, relative to disposition of captured weapons; to agency letter of October 8, relative to the introduction of malt liquors; letter of October 21, relative to the disarming of outlaws and desperadoes; December 10, relative to removal of persons and property of men who are fugitives from justice in the States; December 11, same subject; December 17, relative to intrusion and outlawry in the Chickasaw country; December 26, transmitting some pertinent questions asked by Captain Lafore.

In conclusion, allow me to assert that I have no desire nor inclination to shirk any of the responsibilities connected with my position. My officers are obedient to orders, and I am ready and willing to enforce and carry out any instruction you may issue. I know it is my duty to protect the Indians under my jurisdiction, but recent events and the encroachments of the courts upon the jurisdiction which I believe properly belongs to the Indian Department, have led me to apprehend that my authority is insufficient for the requirements of that which I should consider a full discharge of my duties. I have the honor to be, very respectfully,

Your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

OFFICE OF SHERIFF,
Gainesville, Tex., December 31, 1889.

MY DEAR FRIEND: Below I give you names of parties who have re-opened their games at Ardmore.

Jim Hughes, Horace Gannaway, Richard Gannaway, Earnest Harden, John Scott, J. Maxey, Red Wilson, Ben Burton, Jim Turubo, J. Campbell, Sam South.

These are all gamblers and "sure thing" men. Now old man Nolan (Tom Nolan), after we quit Ardmore, beat Marion Ridenour (a deputy United States marshal who helped you burn out the gamblers) over the head with a pistol and tried to kill him. If you and Agent Bennett will put them out of the country you will please all the law-abiding people.

W. H. Rawlings, whom you closed out, has not done anything since you left. He has complied strictly with your orders. I stand ready to aid you and your agent at all times.

Regards to all your family.

Truly, your friend,

HECK THOMAS.

Capt. CHAS. LAFLORE,
Limestone Gap.

UNITED STATES INDIAN SERVICE,
Limestone Gap, January 4, 1890.

DEAR SIR: I have had a writ served on me by Deputy Marshal Joe Henderson. I am charged with robbing Doc. Foster, of Marietta, Chickasaw Nation, a gambler whom I disarmed and destroyed his gambling outfit. We start for Paris to-morrow morning, where I will give bond, but will take no further step in the matter until I see you. I understand a writ has been issued for Heck Thomas in the same case for assisting me.

Respectfully,

CHARLES LA FLORE.

Mr. LEO E. BENNETT,
United States Indian Agent, Muscogee, Ind. T.

P. S.—Inclosed please note letter of Heck Thomas of recent date.

CHS. LA FLORE.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 28, 1890.

SIR: I have the honor to inclose herewith copy of a letter of January 4, 1890, from the Union Indian agent at Muscogee, Ind. T., stating that Capt. Charles La Flore, of the United States Indian police force of his agency, has been arrested on a warrant issued by United States Commissioner Kirkpatrick, of Paris, Tex., charging him with robbery in having taken two revolvers from one "Doc." Foster, a notorious gambler and "fakir" in the Chickasaw Nation, on the occasion of a raid upon the gamblers and liquor-dealers at Ardmore, that Nation, directed by the agent on December 19, 1889.

From correspondence on file in this office it seems that the Chickasaw Nation is fast becoming overrun by intruders, many of whom are men of very bad character, having no regard for law. Ardmore especially appears to be the rendezvous of all the worst element from the States adjoining the Indian Territory, and gambling, whisky-drinking, and rioting is carried on there to such an extent by lawless intruders and those of the Indians who can be influenced by them, that the good citizens of that community are constantly in danger of losing their lives and property.

A copy of a letter of December 17, from Agent Bennett, transmitting a communication of December 16, 1889, from A. D. Chase, on the subject of the lawlessness practiced by non-citizens at Ardmore, is also herewith inclosed.

Under their treaty (14 Stats., 769) with the United States Government, the Chickasaw people have the right to look to the United States Government for protection against these intrusions, and it is the duty of the Department to remove all improper persons from their Nation. Under date of December 15, 18-8, the question of intruders in the Chickasaw Nation was presented to the Department by this office, and December 27, 1888, authority was granted for the removal of all persons found within that Nation contrary to law. This authority was transmitted to Agent Owen January 10, 1889, but it seems he took no action thereunder, and on October 28, 1889, Agent Bennett, his successor, was furnished with a copy of the same and directed to take steps to carry it into effect, and it is understood that the action which has resulted in the arrest of Captain La Flore was taken under that authority.

It is of the utmost importance to the proper and successful administration of the Indian service that the officers of this Department in the lawful discharge of their duties should not be interfered with or subjected to personal inconvenience and annoyance by fear of criminal prosecution.

In order that some protection may be given the officers of the Union Agency in the performance of their duties, and that the Chickasaw people may be relieved if possible of the intrusions complained of, I have the honor to recommend that the Attorney-General be requested to instruct the proper United States district attorney, or some special agent of his Department, to investigate the matter, and report to him whether some plan can not be adopted by which the lawful authority of this Department and the Indian agent can be exercised without the interference complained of, or whether further legislation on the subject will be necessary to accomplish the end desired.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, December 27, 1888.

SIR: In compliance with the recommendation contained in your letter of the 15th instant, you are hereby authorized and directed to instruct United States Indian Agent R. L. Owen, of the Union Agency, Ind. T., to remove from the Indian Territory all citizens of the United States who are found within the country of the Chickasaw Nation without authority of law.

In communicating these instructions to Agent Owen you will direct him to so execute them as to reduce to the minimum the amount of suffering and inconvenience and privation to the intruders, and of loss or damage to their movable property, etc.

He should also be informed that these instructions apply only to the persons who are clearly ascertained to be in the Chickasaw territory without lawful authority or permission. In cases where there is doubt as to the right of the person to be and to remain in the Chickasaw territory, the agent will be required to report to you with all the facts as to each of such cases, and await your instructions before proceeding to disturb or to remove such persons. He should, however, at the same time be given to understand that it is intended by this authority that the Chickasaw territory shall be delivered of all persons who are clearly there without right or lawful permission, and who are intruders in that country and such intruders should be given to understand that they will not be permitted to remain in that country against the wishes and without the express permission of the Chickasaw authorities; but the agent should keep in mind the caution that the proceedings for their removal must be so conducted by him as not to cause any unnecessary hardship, suffering, or loss.

The War Department has this day been called upon to afford Agent Owen such assistance as he may ask in accomplishing the removal of the intruders from the Chickasaw territory in accordance with these instructions.

Very respectfully,

WM. F. VILAS,
Secretary.

THE COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 10, 1889.

SIR: By a letter of October 24, 1888, from Charles Roberts, a citizen of the United States, residing at Stonewall, Chickasaw Nation, a printed copy of an anonymous call for a mass-meeting of United States citizens in that Nation, to have been held at Purcell, October 31, 1888, for the purpose of forming "a protective and defensive association," etc., and a printed copy of a protest signed by William M. Guy, as governor, against the said anticipated meeting of non-citizens, were transmitted to this office.

In order that this office might be able to take some proper and intelligent action on the matter, Special Indian Agent Henry Heth was directed, by letter of November 21, 1888, to investigate the same and report all facts in connection therewith, stating what relation the class of persons who may have attended the meeting bear to the government of the Chickasaw Nation.

It appearing from Agent Heth's report of December 7, 1888, that there are a large number of white men living in that portion of the Chickasaw Nation bordering on the Oklahoma country, a great portion of whom are there without authority of law, and in violation of Chickasaw laws, and that in his opinion this call was in a measure due to the unsettled condition of the country, in consequence of the contest being waged over the result of the recent election for governor of the Nation, and the readiness of a bad and lawless white element residing on the Oklahoma border in that Nation, that has nothing to lose and much hope of gaining thereby, to precipitate trouble, and if possible revolution, this office, by letter of December 15, 1888, requested the Secretary of the Interior to authorize the removal of all persons found in the Chickasaw Nation in violation of law.

I am now in receipt of a letter (copy herewith) of December 27, 1888, from the Secretary of the Interior, authorizing and directing this office to instruct you "to remove from the Indian Territory all citizens of the United States who are found within the Chickasaw Nation without authority of law."

You will, as directed by the Secretary, so execute these instructions "as to reduce to a minimum the amount of suffering, inconvenience, and privation to the intruders, and of loss and damage to their movable property," etc.

Your attention is directed to that part of the Secretary's letter where he directs that you be "informed that these instructions apply only to the persons who are clearly ascertained to be in the Chickasaw territory without lawful authority or permission. In cases where there is doubt as to the right of the person to be and to remain in the Chickasaw territory, the agent (you) will be required to report to you (me) all the facts as to each of such cases, and await your (my) instructions before proceeding to disturb or to remove such persons. He (you) should, however, at the same time, be given to understand that it is intended by this authority that the Chickasaw territory shall be delivered of all persons who are clearly there without right or lawful permission and who are intruders in that country, and such intruders should be given to understand that they will not be permitted to remain in the country against the wishes and without the express permission of the Chickasaw authorities."

You will, upon receipt of these instructions, take such action in accordance herewith as will effectually free the Chickasaw Nation of all persons who are there without authority and in violation of law, calling on the military for such assistance as you may require to effect that object.

On December 31, 1888, the Secretary of War advised this Department that the Major-General Commanding the Army has been instructed to carry out the wishes of the Department of the Interior in this matter, should the assistance of troops be deemed necessary.

Very respectfully,

JNO. H. OBERLY,
Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muskogee, Ind. T.

UNION AGENCY,
Muskogee, Ind. T., July 22, 1889.

SIR: I have the honor to transmit herewith inclosed additional affidavits in the matter of the complaint of W. S. Autry and others against Amos Green and others. On July 20 I forwarded to you a package of papers bearing on this subject, and suggested that the matter be referred to the special agent who was soon to be here. General Gardner is now here, and I renew my suggestion and urge prompt action.

To-day Mr. H. B. Campbell personally appears before me and makes the inclosed sworn statement. I have known Mr. Campbell for five years and I regard his state-

ment as absolutely true. I have known many whose names appear to the inclosed petition, I know and recognize some of their signatures, I know many of the petitioners as highly-respectable, honorable business men, and I believe their statements to be true. I believe that these men (Hocker, Green, *et al.*) are conspiring and confederating as charged. I believe the scheme they have concocted and are endeavoring to carry out to be the most unprincipled and boldest effort at extortion and robbery ever attempted in the Indian country. The conduct of these men in this matter stamps them as men utterly unfit to reside in the Indian country. In fact, I conceive it to be my duty to forthwith remove them from this reservation, and I only hesitate so to do because I have referred the matter for your consideration. If I were to attempt their removal at this time they would telegraph you for a stay of proceedings, and you would probably estop me pending an investigation. I want the investigation first, and when I begin the movement there will be no intervention. Again, the removal of these men will necessitate an expense of at least \$100, as Purcell is 300 miles from here by rail, and I would be compelled to send several of my Indian police around. Again, the removal of these men may cause the taking of life if they resist as they say they will, and a force of ten men should be used, as by superior numbers they would be constrained to not resist to the extent of taking life for fear of losing their own. These men are clearly intruders in this country; they are all white men, who have not a shadow of right to remain in a community, the privileges of which they have so shamefully abused, and I am only sorry the statutes are not severe enough to give such men justice. Green says he can not be removed because he is an attorney before the United States court at Muscogee, and that Hocker can not be removed because he is a United States commissioner, and that the other men are only sojourners in the country. These men have no permits, as the laws of the Chickasaw Nation requires. But even if it be admitted that appointment as United States commissioner or admittance to the bar confers the right of residence, it does not and can not carry with it any right to rent land for the purpose of erecting a flouring mill and other manufacturing and business houses, etc., to establish business, prospect for coal, etc., as claimed by Messrs. Green and Hocker. Sections 2138 and 2139, Revised Statutes, provide how non-citizens of good moral character, etcetera, may transact business in the Indian country, but these men refuse to comply with this law, and dare and defy this agency to enforce the same. I do not hesitate to say that I believe the statements submitted against these men, which statements are emphatic in making them out to be the most unblushing lot of scoundrels that ever went unhung. They are bold and unprincipled in their attempt to rob the honest citizens of the Chickasaw Nation and licensed traders who are there under licenses issued by your Department, and therefore entitled to the protection of the United States Government. Purcell was a comparatively peaceful town until Amos Green arrived there. He and his conspirators have made it a place of contention, envy, and bickerings. Even were these men (which they are not) properly licensed to reside in the Indian country, their characters and their conduct, as shown by the sworn statements submitted to you, have been such as make them improper persons to reside in the Indian Territory, and they should be removed into some State. The whole town of Purcell is arrayed against these men, and if it were not for the faith of these people in the universal justice of the Indian Office, I am convinced that the people would long since have taken the matter into their own hands and dealt out to these men a rough measure of western justice. Indeed, it will not surprise me if they do so yet, for I am convinced they have been shamefully treated. Indeed, the last administration absolutely failed to afford to these Indian nations that protection afforded by previous administrations. Their country has been and is overrun with a class of renegades and outcasts that have no fit abiding place unless it be within the wall of a penitentiary. These people have been intruded upon, their ranges grazed by the cattle of non-citizens, their country occupied by an outcast population who refuse to regard the laws of the country or of the United States, their property rights utterly disregarded, and now comes a "syndicate" known as "The Purcell Internal Improvement Company," and in defiance of every law of the country attempt to extort money and rob and deprive Chickasaw citizens and others who observe the laws and are entitled to its protection of the fruits of years of toil and labor.

These Indian people and others of the Territory appeal to you as does a child to its parent, they have no other peaceable way of securing their rights, and with a strong faith that this Republican administration will continue their friend and protector as it has done heretofore. As an evidence of the disregard shown by these men toward the agency I inclose an "intruder notice" issued against and served upon Mr. Hocker; your attention is asked to the endorsement upon the same. The words "I decline to remove from the limits of the agency" were written by Green and the signature is Hocker's. I also inclose an affidavit showing the personal abuse to which an officer is subjected when he performs an official duty. This is an urgent and an important matter, and I respectfully and earnestly ask that prompt consideration be given to it. I am ready and willing to do my duty and to carry out your

orders and instructions. I desire to state that I have carefully weighed and considered every statement made and in closing repeat with all possible emphasis.

I have the honor to be, most respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, August 5, 1889.

SIR: I have the honor to inclose herewith letters of July 20 and 22, 1889, from Leo E. Bennett, esq., United States Indian agent at Muscogee, Ind. T., transmitting sworn statements and petitions from certain citizens of the Chickasaw Nation, licensed traders, and persons engaged in business at Purcell, that nation, under permits from the authorities thereof, complaining that Taylor Flick, Amos Green, J. M. Abernathy, John Woodard, J. L. Barringer and J. W. Hocker, non-citizens of the said nation, have conspired with R. J. Love, a citizen, to rob them of "their homes, their property, and other valuables to the amount of thousands of dollars," and requesting the removal of the said non-citizens, and that the Indian agent would protect them in their property.

Agent Bennett states in his letter of July 22, 1889, that he is personally acquainted with many of the petitioners, and knows them to be highly respectable, honorable business men, that he recognizes some of the signatures of said petitioners, and that he believes their statements to be true; that he believes these men, Hocker, Green, and others, are conspiring and confederating as charged, and that he believes the scheme they have concocted and are endeavoring to carry out to be the most unprincipled and the boldest effort at extortion ever attempted in the Indian country.

In relation to the character of these men the agent says:

"Purcell was a comparatively peaceful town until Amos Green arrived there. He and his conspirators have made it a place of contention, envy, and bickering. Even were these men (which they are not) properly licensed to reside in the Indian country, their character and their conduct, as shown by the sworn statements submitted to you, have been such as makes them improper persons to reside in the Indian Territory, and they should be removed into some State."

He also says that "the whole town of Purcell is arrayed against these men, and if it were not for the faith of these people in the universal justice of the Indian Office, I am convinced that the people would long since have taken the matter into their own hands and dealt out to these men a rough measure of western justice."

Mr. Hocker is an old offender against the peaceful relations heretofore existing between the citizens of the Chickasaw Nation and licensed traders and other citizens of the United States lawfully residing in or about Purcell, that nation, he having been party to a number of controversies arising out of the lands of the said nation at that place which have been called to the attention of this office.

By a letter of April 2, 1889, William L. Byrd, governor of the Chickasaw Nation, transmitted to the Department a petition from certain citizens of that nation asking for Mr. Hocker's removal as an intruder, and stating as reasons therefor that he had no permit, and was acting as legal adviser to parties in and about Purcell, who, under his advice, were squatting on lands of Chickasaw citizens and setting up claims to ownership thereto. Also charging him with having advised licensed traders to refuse to pay rent for land belonging to citizens on which they had built.

Governor Byrd's letter, with its inclosures, was transmitted to the Union Indian agent by letter of April 25, 1889, with the advice that, should he find upon investigation that Mr. Hocker was in the Chickasaw Nation contrary to law, he had authority under section 2147 Revised Statutes to remove him, which authority should be exercised.

Article 43 of the Choctaw and Chickasaw treaty of April 28, 1866 (14 Stats., 779), provides as follows:

"The United States promise and agree that no white person, except officers, agents, and employes of the Government, and of any internal improvement company, or persons traveling through, or temporarily sojourning in the nations, or either of them, shall be permitted to go into said Territory, unless formally incorporated and naturalized by the joint action of the authorities of both nations of Choctaws and Chickasaws, according to their laws, customs, or usages," etc.

These parties claim that they are not liable to removal from the Chickasaw Nation by the agent, for the reason that J. W. Hocker is a United States commissioner, Amos Green is an attorney at law practicing before the United States court at Muscogee, and the other parties, except Love, are "temporarily sojourning" in the said nation.

By section 2147, Revised Statutes, the agent is authorized to remove all persons found in the Indian country contrary to law.

Section 2149, Revised Statutes, reads as follows:

"The Commissioner of Indian Affairs is authorized and required, with the approval of the Secretary of the Interior, to remove from any tribal reservation any person being thereon without authority of law, or whose presence within the limits of the reservation may in the judgment of the Commissioner be detrimental to the peace and welfare of the Indians, and may employ for the purpose such force as may be necessary to enable the agent to effect the removal of such person."

In the cases of Amos Green, Taylor Flick, J. M. Abernathy, John Woodard, and J. L. Barrington, there exists no doubt in my mind as to the power of the agent himself to effect their removal, for I do not think it can be seriously contended that an attorney practicing before a United States court is such an officer of the United States as was contemplated by the treaty should be permitted to remain in the Chickasaw Nation. Amos Green is there in the pursuit of a voluntary private avocation for personal gain, and is made an officer of the court for purposes of discipline alone. Nor do I think it can be claimed that a party is a temporary sojourner in the Indian country when it appears that he is actively engaged in making arrangements for the establishment of an extensive business and for a permanent residence therein.

J. W. Hocker, being a United States commissioner, may possibly have some shadow of "authority of law" for his residence in the Chickasaw Nation, and therefore his enforced removal should be effected by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, as provided in section 2149.

From the facts presented in the papers transmitted by Agent Bennett, and other facts heretofore brought to the attention of this office, I am of the opinion that Amos Green, Taylor Flick, J. M. Abernathy, John Woodard, and J. M. Barrington are residing in the Chickasaw Nation without authority of law, and that they, with J. W. Hocker, are improper persons to be permitted to remain in the Indian country, and that their presence in the Chickasaw Nation is a menace to the peace and welfare of the Indians of that Nation, and a hindrance to the proper administration of Indian affairs at the Union Agency, and I have the honor to recommend that authority for their removal from within the Indian Territory be granted.

R. J. Love, who is a white man, but a citizen of the Chickasaw Nation by intermarriage, is probably equally responsible with the other parties complained of for the disturbed state of affairs at Purcell, and his removal is perhaps also desirable; but, in view of his citizenship, it is thought best to suffer him to remain in the Nation at present, in the hope that the removal of the others will be a sufficient warning to him, and it is my purpose to instruct Agent Bennett to notify him that if his conduct continues to be detrimental to the peace and welfare of the Indians he will be removed.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

UNION AGENCY,
Muscogee, Ind. T., August 9, 1889.

SIR: I have the honor to transmit herewith additional papers relative to the town-site controversy at Purcell, Ind. T. Among these papers appears an answer of Mr. Hocker to the notice of intrusion served on him, and in which he raises several questions not heretofore ruled upon by the Indian Office. I have attached to Mr. Hocker's exhibit an exact copy of the blank forms furnished for the use of the agency.

I have no reason to change the views of this case expressed in my letter of July 22; on the contrary am more than ever of the decided opinion that Messrs. Green *et als.* should be removed, and be required to remain without the limits of this agency.

I have heretofore transmitted all other papers that have any bearing on the subject, and I hope you will appreciate the importance of an early determination of the matter.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, August 15, 1889.

SIR: Referring to office report of August 5, 1889, relative to complaints by certain citizens of, and other parties residing in, the Chickasaw Nation, against Amos Green, J. W. Hocker, and others, non-citizens, and recommending that authority be granted for the removal of the non-citizens complained of, I have the honor to inclose herewith a letter of August 9, 1889, from Indian Agent Bennett transmitting additional papers bearing upon the question, as also a letter of August 2, 1889, from J. W. Hocker, relative thereto, with recommendation that they be considered in connection therewith.

The return of accompanying papers to the files of this office is requested.

Very respectfully, your obedient servant,

R. V. BELT,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF JUSTICE,
Washington, November 18, 1889.

SIR: Referring to your communication of the 9th of August last, in which you requested that certain charges against J. W. Hocker, a United States commissioner in the Indian Territory, be investigated, I have the honor to transmit herewith for your consideration a copy of the report of Examiner F. B. Crosthwaite, of this Department, to whom the papers were sent for investigation.

Copies of the report of Mr. Crosthwaite have also been forwarded to Hon. Don A. Pardee, United States circuit judge fifth circuit; to Hon. I. C. Parker, United States district judge western district of Arkansas; and to Hon. Aleck Boorman, United States district judge western district of Louisiana, for their consideration and such action as they may deem proper.

Very respectfully,

W. H. H. MILLER,
Attorney-General.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF JUSTICE,
Washington, October 31, 1889.

SIR: In compliance with your instructions of September 18, 1889, to investigate certain charges made against United States Commissioner J. W. Hocker, at Purcell, Ind. T., of a conspiracy with others to "rob the Indians," I have completed the investigation and have the honor to make the following report.

It appears that the complaints are made mostly by "licensed traders" doing business at Purcell, including a few white citizens of the Chickasaw Nation who have acquired their citizenship by marriage to Indian females of that nation.

No complaints came to me from, nor could I find that any were made by, those of Indian blood.

The cause of the complaints made to me does not necessarily affect the interests of the Indian, but rather partakes of the nature of a controversy between outside parties to determine which shall profit most out of the privileges enjoyed under the Chickasaw laws, and the lenient laws of the United States, admitting United States citizens to the Indian country.

I am unable to substantiate the charge of "conspiracy to rob the Indians," but an investigation of the matter disclosed to me a condition of things which I consider calls for prompt and vigorous action on the part of the United States authorities.

All the complaints made are directly traceable to the actions of the "Purcell Internal Improvement Company," and that you may be fully advised on the subject I will state briefly the facts surrounding the organization of that company, the methods pursued by it, and also to what extent Mr. Hocker is connected with it.

When the Gulf, Colorado and Santa Fé Railroad line was surveyed through Indian Territory it was decided to make the point now occupied by Purcell, in the Chickasaw Nation, the end of a "division" of that road.

It appears that prior to said survey one Robert J. Love, a citizen of the Chickasaw Nation by marriage, had what is known as a ranch or a citizen's claim on the south side of Walnut Creek, about 1 mile from the present center of the town of Purcell.

As settlers and traders began to arrive at Purcell said Love made claim to a large tract of land on the north side of Walnut Creek, on which it was probable the town would be built.

It is not my province to question the validity of Love's claim to this land; suffice it to say that he took possession of the land and made contracts with the traders, giving them the right of occupancy for twelve months, at a uniform price of 50 cents per front foot for business lots and 25 cents per front foot for residence purposes.

The laws of the Chickasaw Nation prohibiting the leasing of lands for a longer period than one year.

It was stipulated in each contract that upon Mr. Love's satisfying and paying the tenant for the improvements made by the latter he should again have possession of the lots rented out.

Among the adventurers attracted to this new country early in 1889 were Amos Green, J. W. Hocker, J. H. Woodward, and J. L. Berringer.

The business men of Purcell recognizing the energy and ability of Mr. Hocker signed a petition for the purpose of having him appointed as a United States commissioner, deeming that the presence of such an officer would, if his duties were faithfully performed, tend to suppress and prevent crime in that locality.

Mr. Hocker was appointed as United States commissioner in February, 1889, by Hon. I. C. Parker, judge of the United States district court for the western district of Arkansas, and later was appointed with civil powers only—in April, 1889—by the Hon. Aleck Boorman, judge of the United States district court for the western district of Louisiana, at that time holding court by assignment of the circuit judge in the eastern district of Texas, each of said districts having jurisdiction in certain parts of the Territory. Still later the Hon. Don A. Pardee, judge of the United States circuit court for the fifth judicial circuit, commissioned Mr. Hocker with full powers as United States commissioner for the eastern district of Texas, which includes in its jurisdiction for purposes not covered by the limited jurisdiction of the United States court for Indian Territory, that part of the Territory in which Purcell is located and where Mr. Hocker has his office.

Soon after the establishment of the United States court for Indian Territory, by act approved March 1, 1889, Robert J. Love entered into a contract with Amos Green, J. W. Hocker, J. H. Woodward, and J. L. Berringer, all non-citizens of the Chickasaw Nation, organizing and forming what is known and styled as the "Purcell Internal Improvement Company." The laws of the Chickasaw Nation require that where any interest in lands is involved all contracts pertaining thereto be made in the name of a Chickasaw citizen, hence the company purported to be organized by and all its business was conducted in the name of said R. J. Love.

The objects of the company have been and now are, to rent, lease, and otherwise dispose of said Love's right of occupancy to all the land he claimed lying north of Walnut Creek, including the town-site of Purcell to third parties, and to demand and enforce the collection of the rents for the use of said lands, lots, etc.

Under the contract, said Love gave to the other parties named above, including Hocker, the absolute control of the handling of said land, reserving to himself only 20 per cent. or one-fifth of any and all amounts accruing from the handling of the property.

I am unable to say why Love should have sacrificed so great a share of his interests to the company, unless it was to escape the trouble attending the handling of the property, or what is more probable, he had, I am informed, despaired of realizing anything from residents and traders of Purcell, as they strongly questioned the validity of his claim to the land, and many had refused to pay the rent he demanded of them after the contract for the first year had expired, hence he was easily persuaded to place the property in the hands of the other members of the company.

Mr. Hocker was "elected" secretary of the company, and was appointed as Mr. Love's agent. Mr. Green was "elected" as legal adviser of the company.

Mr. Love retired to his farm, about 25 miles from Purcell, leaving everything in the hands of Hocker and Green.

Having the means at hand by which they could increase their revenues, it was decided at a meeting of the members of the company to "re-adjust" the rents, whereby a charge was demanded of the traders and residents, that they should pay to the agent of the company \$1 per front foot for the use of business lots and 50 cents per front foot for residence lots, which was an increase over former charges of 100 per cent.

As the contracts that had been made with Love prior to the organization of the company expired notices were served on the tenants that unless they paid the increased rent they would be forced to vacate, the object being, I am satisfied, to thus frighten some of the traders away, thus securing to the company the improvements without paying for them.

Many of the traders declined to pay the rent demanded by the company and refused to vacate, and as a result, Mr. Green, as "legal adviser" to Mr. Love, instituted ejectment suits in Love's name, against many of them in the United States court for Indian Territory, where they are now pending.

The course pursued by the company is the underlying cause of all complaints made in this connection, and was the signal for a combined and determined effort on the part of the tenant to prevent the unwarranted imposition on their supposed rights.

Prior to the organization of the company both Love and Hocker enjoyed the respect and confidence of the people, and it is still their belief that Love is merely a tool in the hands of the other parties, and Mr. Love expressed himself as being very much of that opinion himself.

During my first interview with Mr. Hocker he informed me that the company had rented from Mr. Love only a corn-field lying adjacent to the town of Purcell, and that he had no interest in the company farther than the salary he received as Love's agent.

I do not believe his regard for the truth is very high, for by reading the contract on which the company was formed, I learned that Hocker and each of the others to it were to receive "20 per cent. of all amounts accruing from rents and leases and all the land lying north of Walnut Creek, claimed by Love, including the town of Purcell," which facts Hocker afterwards admitted to me.

By Mr. Hocker's connection with this company he has forfeited the respect and confidence of almost the entire community and fairly shown in affidavit of postmaster John M. Wantland of Purcell, in Exhibit F, herewith, wherein it is stated that Mr. Hocker is not a fit person for any position of public trust. Mr. Hocker is an energetic and capable man, but his ambition, desire, and efforts to make money have warped his better judgment so that the proper and faithful performance of his duties as an United States commissioner is a matter of secondary consideration. Surely, his connection with and interest in the Purcell Internal Improvement Co. company has interfered materially with the performance of his duties as commissioner and has forced great expense upon the Government, most of which could and would have been avoided if he had performed his duties as commissioner faithfully, and as evidence of his failure so to do, I hand you herewith affidavits of W. S. Antry, Riley Sherrill, and Thos. Robinson, marked Exhibit C. Said Antry was the defendant in an action of ejectment by Love, and plaintiff was given judgment by default. Hocker took deputy marshals and carried judgment into execution by ordering Antry out of the house, and the officers removed his goods out of doors. After said officers had left the premises, Antry proceeded to replace his goods in-doors again, being assisted by Riley Sherrill, an aged colored man, living near said Antry. Both Antry and Sherrill were thereupon arrested for intimidating a United States officer on complaint made by one Lee Foreman (colored), who signed it at the request of said Hocker, and the "offenders of the law," Antry and Sherrill, and Robinson, in another case, were, together with the necessary witnesses, all sent to Paris, Tex., some 200 miles distant, for examination before a commissioner, when it was the duty of Commissioner Hocker to make the examinations himself at Purcell, saving to the Government the expense for mileage of officers, prisoners, and witnesses.

I am not able to state to what extent this has been practiced, but that it is done there is no doubt.

While I am not able to prove conclusively that there is collusion between the deputy marshals and Commissioner Hocker, for the purpose of making money illegally, I am strongly impressed that the sending of prisoners, officers, and witnesses so long a distance for preliminary examination, which should have been conducted on the spot, savors very strongly of collusion.

While on this point, I beg to invite your attention to affidavit of Alton Love, marked Exhibit C, plainly showing to my mind that Mr. Hocker was interested with a deputy marshal in extorting from an unsuspecting citizen the sum of \$150, besides furthering a scheme by which an offender was to be "stolen" or kidnapped by a deputy marshal in some part of Texas, outside of the eastern district of that State, and brought to Hocker's office. This kidnapping is no doubt done frequently, but in the case of Love no step was taken to get the man, neither was it their purpose to take such steps, the only object being to get the money, which they did most successfully.

I will treat the case of the deputy marshal more at length in my report on the office of the United States marshal for Indian Territory. Mr. Hocker denies in toto all the charges made against him, but in a laughing way said to me that the "stealing" and "trading" process of capturing criminals is indulged in frequently in that country.

Governor Byrd, of the Chickasaw Nation, complains bitterly against Mr. Hocker, to the effect that he is inciting non-citizens to violate the laws of that nation, and advises them not to pay the special tax of \$5 required from every resident in the nation. That Hocker did so advise traders is a fact. Please see affidavits of Chitwood, Alexander, and Flow, in Exhibit D. Mr. Hocker gave as his authority for so doing the indorsement of the United States Indian agent's clerk, on the back of letters written to the agency, by Messrs. Farmer and Campbell, asking for a decision on that point, which was given under date of February 20, 1889. (See Exhibit E.) Whereas, by reference to affidavit of J. E. Chitwood, in Exhibit marked D, it will be seen that he was giving this advice in January, 1889, before the decision of the clerk at the Indian agency (which was wrong) was given.

In view of the facts set forth by me in the foregoing relative to Mr. Hocker and the fact that few, if any, have confidence in Mr. Hocker, and further that because Mr. Hocker's personal interest in the company is directly antagonistic to the interests of the people in Purcell, it is highly improbable that justice will be meted out impartially, or that the affairs of his office as commissioner will be fairly administered.

Many irregularities indulged in by Commissioner Hocker came to my notice, and while I am perfectly satisfied that he has prostituted his office for personal gain, and has engaged in the most corrupt practices, as shown to me by statements made by many of the best citizens of Purcell, who at the same time state they have no personal ill-feeling towards Mr. Hocker. I found it almost impossible to obtain sworn statements as to the facts, as those who were guilty with him in corruption will not speak, and others have no absolute personal knowledge upon which to base a statement, further than conclusions drawn from observation and from unlooked-for results of his official acts.

Mr. Hocker denied every charge made, and for that reason I did not deem it necessary to take his sworn statement.

While I believe that his official conduct and acts have been of the most serious type of corruption and collusion I am also well satisfied that at this time it would be difficult, if not impossible, for the Government to obtain specific proof sufficient to indict him.

I therefore have to recommend that, for the benefit of the service and the peace of the complainants, steps be taken to disrobe him of the authority with which he is clothed as a United States commissioner from any and all sources.

Very respectfully,

Examiner, Department of Justice.

The ATTORNEY-GENERAL.

The papers submitted herewith and made a part of my report are as follows:

- EXHIBIT A.—Samples of contracts between R. J. Love and Indian traders.
- EXHIBIT B.—Affidavit of R. J. Love, showing Hocker's connection with the company.
- EXHIBIT C.—Affidavit of W. S. Antry *et al.*, showing Hocker's failure to perform his duty.
- EXHIBIT D.—Affidavit of Chitwood *et al.*, showing Hocker's advice to them to violate laws.
- EXHIBIT E.—Letters bearing indorsement, which Hocker claims as authority for so advising.
- EXHIBIT F.—Affidavits of Postmaster Wantland, showing that Hocker has forfeited confidence of all the people. Also affidavit of Alton Love and Joe Criner, showing Hocker's remarks to the banker, Mr. Beeler, from which it is fair to infer that he, Hocker, engages in corrupt practices.
- EXHIBIT G.—Notice from Indian agent to Hocker *et al.*, to show what right they have to interfere with the Indian traders, and Hocker's reply denying that a conspiracy exists, etc.
- EXHIBIT H.—Papers showing prior record and general reputation of Amos Green, the legal adviser of the company and with whom Hocker is associated intimately.
- EXHIBIT I.—Papers relative to Hocker's record prior to present complaints.
- EXHIBIT K.—Papers of which there are duplicates in Exhibit F.
- EXHIBIT L.—Papers questioning the validity of Love's claim to land occupied by the town of Purcell.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, August 16, 1889.

SIR: Referring to office reports of August 5 and 15, 1889, relative to the complaint against Amos Green, J. W. Hocker, and other non-citizens of the Chickasaw Nation, and recommending that authority be granted for their removal, I have the honor to inclose herewith a letter of August 12, 1889, from D. M. Wisdom, clerk at the Union Agency, transmitting certain additional papers relating to the matter, and to request that they be considered in connection therewith.

Very respectfully, your obedient servant,

R. V. BELT,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., September 2, 1889.

SIR: Among the papers transmitted to you by me on the 20th July last in the case of J. W. Hocker was a contract of Messrs. Farmer and Campbell. This contract is needed as evidence in a suit now pending in the United States court, and I respectfully request that it be returned to this agency for that purpose.

I have the honor to be, very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF JUSTICE,
Washington, September 18, 1889.

SIR: In compliance with the request contained in your letter of August 9, we have this day instructed F. B. Crosthwaite, examiner in this Department, to proceed at once to the Chickasaw Nation and investigate the charges against J. W. Hocker, United States commissioner.

Very respectfully,

O. W. CHAPMAN,
Acting Attorney-General.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF JUSTICE,
Washington, September 19, 1889.

SIR: I return herewith the original papers which were requested this afternoon by Mr. La Dow, copies of which have been made for our examiner's use in investigating the charges against Commissioner Hocker, of the Chickasaw Nation, Indian Territory.

Very respectfully,

E. C. FOSTER,
General Agent.

Hon. R. V. BELT,
Acting Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, September 24, 1889.

SIR: In compliance with request contained in your letter of September 2, 1889, the rent contract between Edward Frederick and A. R. Farmer, transmitted with other papers in your letter of July 26, 1889, is herewith returned.

Very respectfully,

T. J. MORGAN,
Commissioner.

LEO E. BENNETT, Esq.,
United States Indian Agent, Union Agency, Muskogee, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., October 1, 1889.

SIR: I have the honor to request the return to this agency affidavits and letters forwarded to you July 20 and 22 last, relative to the complaint of Autry *vs.* Green, Hocker *et al.*

Mr. Frank B. Crosthwaite, examiner of the Department of Justice, desires to use them in the investigation he is now making.

The situation at Purcell remains the same; the citizens there rely upon my promise that whatever rights they may have and are able to show will be respected by the Interior Department.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR,
Washington, October 12, 1889.

SIR: The Department is in receipt of your communication of the 11th instant, requesting the return of certain affidavits and letters relative to complaints against Amos Green, J. W. Hocker, and others, for use by the examiner of the Department of Justice, who has been directed to investigate the matter in order to ascertain what connection Mr. Hocker, the United States commissioner, has had with the irregularities, complained of.

In reply I transmit herewith your letters of August 5, August 15, and August 16, with their accompanying inclosures. The papers should be returned to the Department when no longer required by your office.

Very respectfully,

GEO. CHANDLER,
Acting Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October 11, 1889.

SIR: I am in receipt of a letter of October 1, 1889, from Agent Bennett, Union Agency, requesting the return of letters and affidavits forwarded to this office with his letters of July 20 and 22, 1889, relative to complaints against Amos Green, J. W. Hocker, and others, for use by Mr. Frank B. Crosthwaite, the examiner of the Department of Justice, who has been directed to investigate the matter in order to ascertain what connection Mr. Hocker, the United States commissioner, has had with the irregularities complained of.

These papers were transmitted with my report of August 5, 1889, on the subject to the Department, and I have the honor to request that they be returned to this office that they may be sent to agent for the temporary use of the examiner of the Department of Justice.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October 14, 1889.

SIR: In compliance with request contained in your letter of October 1, 1889, the affidavits and other papers forwarded with your letters of July 20 and 22, 1889, relative to the complaint of Antrey against Green, Hocker, and others, are herewith returned for use in the investigation being conducted by an officer of the Department of Justice, in order to ascertain the connection Mr. Hocker has had with the irregularities complained of.

As soon as the purpose for which these papers are transmitted to you shall have been served, you will return them to the files of this office.

Very respectfully,

T. J. MORGAN,
Commissioner.

LEO E. BENNETT, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kan., August 2, 1888.

SIR: Referring to reported troubles at Ardmore, Ind. T., I have the honor to state for the information of the division commander that Capt. E. D. Thomas, Fifth Cavalry, under date of July 31, reports from that place as follows:

"I have the honor to report that upon my arrival at Ardmore, Ind. T., on the 27th of July, I investigated the cause of trouble at that place, and that it arose from the action of certain non-citizens in taking cattle from the Chickasaw militia, said cattle having been seized by tax-collector in default of payment of taxes as authorized by the intercourse and Territorial laws. A body of about sixty-five non-citizens, organized and armed, under leaders, approached the camp near Pitman's ranche, of the

Chickasaw militia, and the leader, a Mr. Stuart, ordered the men whose cattle had been seized to retake or cut-out their cattle at all hazards. This was speedily accomplished; the cattle taken away. No resistance or attempt at resistance made by Chickasaw militia. The non-citizens, from all I can learn, were well armed with shot-guns, revolvers, and Winchester rifles. No fighting occurred and no injuries inflicted upon any one. The non-citizen element will not comply with Chickasaw permit law, and hold cattle contrary to the Territorial laws, and will not pay the tax imposed on cattle, number about two hundred, and an active, defiant, and unscrupulous class, no respecters of Indian rights, and a dangerous and lawless class. In my opinion there will be no further trouble. The Indian agent, or his authorized agent, arrived this day, and is now in conference with the governor, and will this afternoon issue notices to the intruders. The militia will enforce the orders of ejection against intruders wherever possible, and will only call upon my command when stubborn and armed resistance is encountered. The mere presence of troops in this vicinity is, in my opinion, sufficient to prevent an open rupture or bloodshed, except perhaps a desperado or two is met with, and who is determined to have a quarrel at any odds. I am unable to say how long it will be necessary for my command to remain here; presume it will take some time to eject intruders, as they number, according to reliable accounts, over five hundred.

“As soon as I can learn of progress and reception and compliance of demands upon non-citizens of Chickasaw Country by agent, I will report the additional information. The lawless element is, as I am informed, confined almost exclusively to Pickins County, Ind., T., county seat Ardmore.”

Very respectfully, your obedient servant,

W. MERRITT,
Brigadier-General Commanding.
The ASSISTANT ADJUTANT-GENERAL, DIVISION OF THE MISSOURI,
Chicago, Ill.

[First Indorsement.]

HEADQUARTERS DIVISION OF THE MISSOURI,
Chicago, August 4, 1888.

Respectfully forwarded to the Adjutant-General of the Army.

GEORGE CROOK,
Major-General, Commanding.

DEPARTMENT OF THE INTERIOR,
Washington, August 3, 1888.

SIR: Referring to my communication to you of the 24th of July, ultimo, regarding instructions to Agent Owen, I hand you herewith a telegram, dated at Gainesville, Tex., received last evening from J. H. Barnett, stating that the agent is about to remove summarily from the Chickasaw Nation fifty-eight persons who have been residing and cultivating their crops there, and that the removal will inflict a severe and unnecessary pecuniary loss upon these people. In view of this telegram, and of the probable needlessness of so summary action in order to protect the rights and the interests of the Government, I think the agent should be instructed by wire to afford all persons whom he removes as intruders under the former letter, who have property or who have cultivated the soil this year, abundant opportunity to remove their property without needless loss, and where they have growing crops to dispose of their crops or to harvest or gather them, unless the circumstances be such that their remaining will be imminently and seriously threatening to the continuance of peace; and that, if there be any such reason, he advise the Department thereof. The order of the Department should be enforced, as was said before, judiciously, so as to relieve the nation of intruders disturbing to their peace and good order, and who have not the privileges of a valid permit, but not with unjust severity, by the sudden disruption of relations which have been allowed to be established, or to the destruction of property or property rights.

In view of the statements of this telegram, I think it would be well to specially inform the agent that this direction relates as well to the fifty-eight persons who took back the cattle from McLish, on the 18th of July last, as well as to others, and also that a telegram should be sent to B. M. Wilson, at Ardmore, in the Indian Territory, that further instructions will be given him through the agent, before it is necessary that he expel the intruders already required to go.

Respectfully, yours,

WM. F. VILAS,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

GAINESVILLE, TEX., August 2, 1888.

Hon. W. F. VILAS,
Secretary Interior, Washington, D. C.:

Agent Owens, at Muscogee, construes your instructions to him as requiring him to expel from Indian Territory those fifty-eight citizens who took from Richard McLish, July 18, their cattle, which McLish had, without their consent, taken for appropriation and sale to pay a penalty or tax of \$1 per head for each thirty days these cattle were kept in the Territory. The cattle were not worth exceeding \$10 per head, and this tax would amount to \$12 per head per annum. The pretended tax was not imposed for revenue purposes, but was a means adopted by natives, who already owned large herds, to confiscate small lots of cattle owned by United States citizens. It will be seen at a glance that confiscation was their purpose. These citizens, whom the agent understands you peremptorily direct him to remove, have large crops of corn and cotton almost matured, which by their personal labor they have planted and cultivated, and have violated no law of the Chickasaw Nation except to take their cattle, which had, without the semblance of authority, been taken from them by McLish; and if these citizens are now removed they will lose all of their crops. I was at Ardmore yesterday and asked Governor Guy if he would not permit those parties to gather their crops. He replied no; they would get no relief. Mr. Secretary, these men are quiet law-abiding citizens, and have done nothing more than any other men, however peaceable, would have done under the same circumstances. They all have wives and children, and if expelled from the nation so suddenly, with no home to shelter them, and deprived of their crops, they, their wives and children, will be at starvation's door.

They are all poor in view of these facts, which can be verified by hundreds in and around Ardmore, Chickasaw Nation. It seems that humanity would require some leniency be shown them, at least to the extent of permitting them to gather their crops off of the lands they have rented of natives. Can't you, in mercy, postpone the execution of your order until they gather crops which are now almost matured? Agent Owens will show no mercy. He is of Indian blood himself and is very antagonistic to the whites, and every discretion reposed in him is equal to the most tyrannical order. If you conclude to postpone please wire D. M. Wisdom, now at Ardmore, Ind. T., at once, as he is there as subagent under orders from Owens, and promised he would give me time to wire you for relief. He claims to have no discretion in the matter, but is obeying an arbitrary order from Owens. I send this by the request of those now on the brink of financial ruin and starvation, with the hope that your order will be so modified as to give them the privilege of gathering their crops. They are not intruders; have paid for and obtained their permits, and rented the lands from natives on which their crops stand. I have just returned from Ardmore and have a personal knowledge of the situation as shown above.

J. H. GARNETT.

TO WISDOM:

(Through the agent.)

The additional direction given is designed only to secure the execution of the order of the office without unnecessary personal hardship or loss of property when reasonable delay will avoid this. Not to apply to cases proper for removal where no such consideration is necessary.

[Telegram.]

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS.

Washington, August 3, 1888.

OWEN, Agent, Muscogee, Ind. T.:

Department instructions for removal of intruders from Chickasaw Nation should be enforced judiciously, so as to relieve the Nation of intruders disturbing to their peace and good order; but without unjust severity or disruption of relations which have been allowed to be established, or destruction of property or property rights which may be avoided by reasonable delay.

Opportunity should be afforded for removal of property without needless loss. Those who have cultivated the soil this year and have growing crops, should have ample opportunity to dispose or to harvest and gather them, unless circumstances of their remaining be seriously threatening to the continuance of peace, and if there be any such reason, advise this Department. This will not apply to cases proper for removal where no such consideration is necessary. Communicate this to Wisdom, from whom telegram is just received.

A. B. UPSHAW,
Acting Commissioner.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kans., August 8, 1888.

SIR: I have the honor to report for the information of the division commander, that Capt. R. H. Montgomery, Fifth Cavalry, on detached service with his troop at the Oxbow Bend of the Arkansas River, under date of the 1st instant, communicates from his camp near Willow Springs, Ind. T., "that since his last report, July 16 (a copy of which was forwarded to your headquarters on the 20th), no intruders have been found and believes all have been removed from that section of the Territory. He says there is a manifest hostile feeling against the cattle-men there by some farmers and other persons living in Kansas close to State line, growing out of the return of soldiers to that country. These people openly and bitterly accuse the ranche or cattle-men with being responsible for the return of troops, which they dislike, and they threaten now to revenge themselves by firing, so soon as dry enough to burn rapidly, all the grass on leases made by the Cherokee Cattle Association. He fears they will soon attempt to execute this threat, and that with the few men of his command he can do little to prevent it."

Colonel Wade, commanding Fort Reno, in forwarding the report says, there has long been hard feeling between the farmers on the Kansas border and the cattle-men in the strip.

In view of the foregoing, I have given instructions to Colonel Wade to keep himself informed as to the necessities of the case, and if necessary in order to maintain the police of the country in Ox-bow Bend, to detach an additional troop to the support of the one already there.

Very respectfully, your obedient servant,

W. MERRITT.
Brigadier-General Commanding.
 ASSISTANT ADJUTANT GENERAL DIVISION OF THE MISSOURI,
Chicago, Ill.

[First Indorsement.]

HEADQUARTERS DIVISION OF THE MISSOURI,
Assistant Adjutant-General's Office, Chicago, August 10, 1888.

Respectfully forwarded, in the absence of the Major-General Commanding, to the Adjutant-General of the Army.

R. WILLIAMS,
Assistant Adjutant General.

STONEWALL, IND. T., *October 24, 1888.*

MY DEAR SIR: Inclosed please find a copy of a call for a meeting of the United States citizens residing in the Indian Territory, or rather, Chickasaw Nation; also, a copy of ex-Governor Guy's manifesto wherein he attempts to intimidate the non-citizens. I do not know who issued it, but the facts set forth are susceptible of proof and the objects of the meeting are perfectly legitimate. The great mass of the non-citizens are hard working, law-abiding people, and are the hope of this country.

I did not intend to be present at the meeting, until Guy put his foot in it. Now, I shall certainly attend, and have so notified him. I shall exercise my constitutional right, even if, for so doing, I am ordered out.

Yours, respectfully,

CHAS. ROBERTS,
Stonewall, Chickasaw Nation.

HON. JOHN H. OBERLY,
Commissioner of Indian Affairs.

A CALL.

To the United States citizens in the Chickasaw Nation:

Whereas the number of United States citizens in the Chickasaw Nation is variously estimated from 20,000 to 30,000, and more than three-quarters of all the property in the nation, as well as seven-eighths of all that is produced in the nation is theirs, and the result of their labor; and

Whereas the Chickasaw Nation numbers less than 500 voters, and its government is a farce—bankrupt in character and purse, and unable to protect its own citizens, much less the interests of the non-citizens, whose rights and property are even now at the mercy of a revolutionary government; and

Whereas vast sums of money collected from the non-citizens for the purpose of educating their children (while ours are growing up in ignorance) are yearly squandered in drunken debauchery in Gainesville and Denison, instead of being devoted to legitimate purposes; and

Whereas murder and crimes against our rights are daily perpetrated, and, for imaginary wrongs, our people are harassed and annoyed, and in some instances dragged from their homes like felons to Fort Smith, at a great expense to them, and on the other hand convicted on *ex parte* testimony, for which we have no redress.

Now, therefore, in consideration of these facts, and in the exercise of the authority in us vested, your committee, after mature deliberation, have decided to invite all of the non-citizens of the Chickasaw Nation to meet in mass convention at Purcell, Ind. T., on Wednesday, October 31, 1888, to form a protective and defense association, and to elect permanent officers for the same; also, to elect a suitable person to represent the non-citizens' interests before the Department of the Interior; to secure Government aid for the establishment of public free-schools in the Indian Territory; to provide for taking the census in the Indian Territory; to consider the question of permits, and devise some method for a more simple and economical collection of the same; select all necessary conference committees, and take whatever steps may be deemed advisable for the mutual protection of each other not inconsistent with our treaty obligations.

Respectfully submitted by the committee report adopted at Overbrook, Chickasaw Nation, October 1, 1888.

Ordered, All citizens of the United States residing in the Chickasaw Nation are earnestly invited to meet in mass convention at Purcell, October 31, 1888, for the purpose of considering the above report and taking action thereon, and every citizen of the United States in the Chickasaw Nation will please to do all in his power to circulate this call.

Please post in a conspicuous place.

GOVERNOR GUY GREETING THE NON CITIZEN REVOLUTIONISTS.

To the non-citizens residing in the Chickasaw Nation :

In reference to the anonymous call made by some of you, and now in circulation throughout the nation, for the non-citizens to meet in convention at the town of Purcell, Ind. T., on the 31st day of October, 1888, to organize a so-called protective association, I am forced to say in behalf of truth that it is an injustice to my country and people that the representations made in that call are infamous lies, fabricated for a purpose by a lawless class of intruders in Pickens County, who are ordered to get out of the limits of this nation by the 1st day of November, 1888, or be forcibly ejected therefrom. They have devised this cunning scheme with the hope of delaying the execution of that order and gaining time to better organize and strengthen their lawless band of mischief makers, between the citizens and non-citizens, with the view of a final disruption of our national government. In short, it is another Oklahoma move, and as the chief executor of this nation, I deem it my duty to enter my protest against such an uncalled-for move on the part of a class of people who voluntarily placed themselves here amongst us, and are not here by compulsion or solicitation on our part. Our treaties and laws of intercourse with the United States Government amply provide for the protection of their lives and property, while they choose to temporarily sojourn among us and cultivate our soil, and if such protection is too meager and the restrictions too great for comfort and happiness to them, they are not compelled to remain, but can return from whence they came without hindrance or restraint. I shall lay the matter of this call at once before the Department in its full meaning and purport, and shall further make it a special point to provide the names and location of all the non-citizens participating in this mischievous scheme, and report them to the Indian agent as intruders for immediate removal.

Our local and intercourse laws in regard to non-citizens will be strictly enforced without respect to person or position.

Respectfully,

WM. M. GUY,
Governor, Chickasaw Nation.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, November 21, 1888.

SIR: I inclose herewith a letter of October 24, 1888, from one Charles Roberts, of Stonewall, Chickasaw Nation, transmitting a printed copy of an anonymous call for a mass-meeting of United States citizens residing in that nation to have been held at

Purcell, Ind. T., the 31st of October last, for the purpose of forming "a protective and defensive association," etc., and a printed copy of a proclamation signed by William M. Guy, as governor, in relation to said anticipated meeting of non-citizens.

While in the Chickasaw Nation investigating certain questions in pursuance of my letters of even date herewith, I desire that you also inquire into this matter and report not only all the facts connected therewith but also what relation the class of persons who may have attended the meeting bear to the government of the above-mentioned nation.

Please return inclosed papers to the files of this Bureau.

Very respectfully,

JNO. H. OBERLY,
Commissioner.

HENRY HETH, Esq.,
United States Special Agent, Washington, D. C.

UNION INDIAN AGENCY,
Muscogee, Ind. T., December 7, 1888.

SIR: In answer to yours of November 21, 1888 (L. 6,922, 1888), I have the honor to state that I have just returned from Tishomingo, Chickasaw Nation, and beg leave to report as follows:

It appears that there are living in that portion of the Chickasaw Nation bordering on Oklahoma, a large number of white men, some there by permission of the Chickasaw authorities, still a greater number without permission and in violation of Chickasaw authority. Another class, known as "boomers," are there, waiting for the Oklahoma country to be opened for settlement.

It further appears that the Chickasaw legislature, in the fall of 1886, passed an act taxing all cattle running at large belonging to laboring men or other United States citizens in excess of five cows and their offspring, \$1 per head per month.

This act was passed, so I was informed by the then governor, William Guy, to prevent the country from being overrun by cattle belonging, or claimed to belong, to white men, and was intended to be prohibitory.

Charles Roberts, of Stonewall, Ind. T., a white man residing by permission in the Chickasaw Nation, sympathized with the white men who were affected by the act referred to, and is believed to have issued the "Call" "To the United States citizens in the Chickasaw Nation," a document revolutionary in its tendency. Governor Guy published an article addressed to the non-citizens residing in the Chickasaw Nation, protesting against the meeting being held. This protest on the part of the Governor had the desired effect, and no such meeting was held.

It is not feared that any trouble will grow out of the anonymous call. I have no doubt that the call referred to was measurably due to the unsettled condition of the country at the time, growing out of the contest going on as to who was elected governor of the Chickasaw Nation.

The bad and lawless white element residing in the Chickasaw Nation on the Oklahoma border are, and always will be, ready to precipitate trouble and revolution if possible. They have nothing to lose and hope to gain by revolution. The white men in this portion of the Chickasaw Nation, residing there without permission, should be removed, and the sooner the better.

I return the papers inclosed in yours of November 21, 1888.

Very respectfully,

H. HETH,
Special Agent.

Hon. JOHN H. OBERLY,
Commissioner of Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, December 15, 1888.

SIR: A letter dated October 24, 1888, from Charles Roberts, a citizen of the United States residing at Stonewall, Chickasaw Nation, transmitting a printed copy of an anonymous call for a mass-meeting of United States citizens in that nation to have been held at Purcell, Ind. T., the 31st of October, last for the purpose of forming "a protective and defensive association," etc., and a printed copy of a protest, signed by William M. Guy, as governor, against the said anticipated meeting of non-citizens, was received in this office on the 30th of October, 1888.

In his letter Mr. Roberts stated that he did not know who issued the call in question, but that "the facts set forth are susceptible of proof, and the objects of the

meeting are perfectly legitimate;" and that he did not intend to be present at the meeting until Mr. Guy protested against it, after which protest he determined to attend and so notified Guy.

In order that this office might have full information on this matter, and thus be enabled to take some proper and intelligent action thereon, Special Indian Agent Henry Heth was directed by letter of November 21, 1888, to investigate the same and report all facts in connection therewith, stating what relation the class of persons who may have attended the meeting bear to the government of the Chickasaw Nation.

In compliance with those directions Mr. Heth has submitted a report of December 7, 1888, from which it appears that there are living in that portion of the Chickasaw Nation bordering on Oklahoma a large number of white men, some of whom are there by permission from the Chickasaw authorities, while a greater number are there without permission and in violation of Chickasaw law. Of the latter class there are those known as "boomers," who are waiting for the Oklahoma country to be opened for settlement.

The call "to the United-States citizens in the Chickasaw Nation" is believed by Agent Heth to have been issued by Mr. Charles Roberts, who is a white man residing by permission in that nation, and in sympathy with other white men residing there, who are affected by an act of the Chickasaw legislature of 1886 imposing a tax of \$1 per head per month upon all cattle belonging to laboring men, or other United States citizens, running at large on the Chickasaw public domain in excess of five cows and their offsprings.

In the opinion of Agent Heth this call was due in a measure to the unsettled condition of the country in consequence of a contest being waged over the result of an election had for governor of the Chickasaw Nation, and the readiness of a bad and lawless white element residing on the Oklahoma border in that nation that has nothing to lose and much hope of gaining thereby, to precipitate trouble and possibly revolution.

Concluding his report Agent Heth says: "The white men in this portion of the Chickasaw Nation, residing there without permission, should be removed, and the sooner the better."

A copy of Mr. Robert's letter and of its inclosures, together with a copy of Agent Heth's report, is herewith inclosed, and in view of the fact that the Government is bound by the forty-third article of the treaty of 1866 with the Chickasaw and Choctaw Nations (14 Stats., 779) to keep their country free from intrusions on the part of citizens of the United States and foreigners, and the further fact that the white men in question appear not only to be in that country without authority of law, but have threatened by an anonymous call to organize themselves for the purpose of interfering with the execution of the Chickasaw laws, and are a menace to the peace and welfare of the citizens of the nation, I have the honor to recommend that Agent Owen, of the Union Indian Agency, be directed to remove all citizens of the United States, residing in the Chickasaw Nation without authority of law, from within the limits of the Indian Territory.

And in order that he may be enabled to accomplish said removals, I have the honor to further recommend that the honorable Secretary of War be requested to cause the necessary orders to be issued to the proper military officers by which a sufficient body of United States troops may be detailed for his assistance therein when called upon by him for that purpose.

Very respectfully, your obedient servant,

JOHN H. OBERLY,
Commissioner.

The SECRETARY OF THE INTERIOR.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

STATE OF TEXAS, *County of Cooke:*

We, the undersigned citizens of the United States of America, together with J. Sutton, J. S. McAllister, William Black, E. Dillard, J. T. Sigmon, John Pittman, and Joe Pittman, who are all citizens of the United States, respectfully represent that the Chickasaw Nation on October 17, 1876, enacted a law known as the Permit Law, which is to be found on pages 105 and 106 of the laws of the Chickasaw Nation.

That sections 1, 2, and 7 of said law read as follows, to wit:

"SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation,* That citizens of any State or Territory of the United States wishing to hire or rent land, or be otherwise employed in this nation, shall be required to enter into contract with a citizen, said contract to be reported by the citizen to the county clerk of the county where said citizen resides.

SEC. 2. *Be it further enacted*, That any citizen who shall employ any non-citizen shall apply, within fifteen days after entering into contract, to the clerk of the county where said non-citizen wishes to reside, for a permit for every male non-citizen over the age of eighteen years in his employ, and for each permit so obtained the non-citizen shall pay to the clerk issuing the same the sum of twenty-five dollars, and the clerk shall retain for each permit issued twenty-five cents for his services, and shall report to the auditor and treasurer quarterly of all money received by him for permits, and, after deducting out his fee, shall pay the balance over to the treasurer for national purposes.

"SEC. 7. *Be it further enacted*, That any person living in this nation under permit shall not be allowed to bring into or hold more than five head of milch cows, and shall have no hogs outside of inclosure, but shall be allowed all the work horses, mules, and cattle as may be necessary to work said farm, and shall be allowed to feed surplus crop of beef cattle under fence."

Said permit law has since been changed by the law of the Chickasaw Nation, in so far as to fix the charge for permits at \$5 instead of \$25. On October 10, 1876, the Chickasaw legislature passed an act entitled "An act to prohibit leasing land." Section 1 of said act is as follows, and is to be found on page 90 of its laws:

"SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation*, That from and after the passage of this act the leasing of land is hereby prohibited within the limits of this Nation, and every citizen violating this act shall be fined in any sum not exceeding one thousand dollars, at the discretion of the district court having jurisdiction; and the lease shall be adjudged to be void from the beginning, and the lessee shall be removed from beyond the limits of the Chickasaw Nation by the sheriff or constable of the county where the lease was made, or the lessee or lessees as the case may be.

"SEC. 2. *Be it further enacted*, That the foregoing section shall not be construed to interfere or invalidate leases entered into before the passage of this act, nor to interfere with or prohibit citizens from renting their places for a term not exceeding a year as practiced heretofore, and that the fines collected under the provisions of this act shall be placed in the national Treasury for national purposes."

Now, your petitioners respectfully allege that the above inducements were open and held out to them by the Chickasaw Nation to induce and encourage them to enter and reside in said Nation, and to make contracts with citizens of the Chickasaw Nation in and by which the said citizens of said Nation employed these citizens to open and cultivate farms in said Nation for said Chickasaws, and upon the faith of said laws and contracts these petitioners have entered upon wild and unbroken land, and have cleared the same, broken it up, and have reduced it from a wild and unbroken state to a state of high cultivation. That in good faith, relying upon said laws granting them permission to reside in said Territory after obtaining permits from said Chickasaw Nation and in all things complying with the prerequisites established by its laws, your petitioners respectfully allege that after so reducing said lands from a wild state to a state of high cultivation they have improved and inclosed the same by good and sufficient fences at their own expense and labor, and they have erected upon their respective lands, which they had contracted with natives to put in a state of cultivation, dwelling houses, out-houses, cribs, stables, lots, and all other improvements necessary in and about an improved farm, and are now, as skilled agriculturists, engaged in cultivating said farms under contracts made with the natives of said Nation under and by virtue of the permission and authority given in its laws for them so to do. That your petitioners are peaceable and law abiding citizens, and have at all times observed and obeyed all lawful orders and rules imposed upon them by the Chickasaw Nation and those with whom they have contracted, and have at all times observed and refrained from violating any article or provision of the treaties existing between the United States and the Choctaw and Chickasaw Nations.

Now, your petitioners respectfully represent that for the year 1888 they have entered upon their said farms under contracts with the natives of the Chickasaw Nation, and upon the faith of said contracts have planted upon said farms large crops of cotton, corn, millet, potatoes, and other crops, which said crops, though not yet matured but in an advanced state of maturity, promise an unprecedented large yield, and that on account of the large expenditures which your petitioners have made upon their respective farms contracted to them as aforesaid, and the permanent, lasting, and valuable improvements made thereon, and the flattering prospect of an immense crop of every kind and variety on said farms, many of said Chickasaw citizens are now desirous of causing these United States citizens to be removed from said Nation as intruders, for the purpose and to the end that said Chickasaw citizens may obtain the possession of said farms, improvements, and crops, without making any recompense whatever to these citizens, at whose expense the whole of said improvements were made, and the object sought to be attained by said Chickasaws is to secure without consideration in addition to the above property all of the cattle owned by these citizens in said Territory.

Your petitioners allege that they have never brought or otherwise conveyed into said Chickasaw Nation any herds or stocks of cattle or horses for the purpose of ranging or grazing in said Territory, but that whilst living in said Territory by permits lawfully issued unto them by said Chickasaw Nation, they have bought from different persons a few cattle in addition to those raised by these petitioners in said Territory, so that these petitioners each have a small bunch of cattle. That neither of them have exceeding 75 head, and the majority of these petitioners have not exceeding 30 head.

Now, your petitioners respectfully allege that said Chickasaw authorities, knowing that your petitioners had invested all of their money and means on the aforesaid farms and had no outside resources, and that they were all poor men, designing and intending to rob these citizens of all of their small lots of cattle and to confiscate them to the use of the Chickasaw Nation and its citizens, the said Chickasaw Nation, in about the latter part of the year of 1886 or first part of 1887, did enact a law in and by which said nation did impose a penalty of \$1 per head upon all cattle held by citizens of the United States in said Territory exceeding 10 head, said penalty of \$1 per head to be collected by the Indian authorities every thirty days or twelve times a year on each head of cattle exceeding 10 held by United States citizens in said Territory. Your petitioners allege that their said cattle are not worth exceeding \$10 per head, and that the penalty on each head to be levied and collected as aforesaid amounts to \$12 per head per year. That said Chickasaw Nation does not levy or impose any tax, penalty, or other charge upon any of the stock or property of citizens of the Chickasaw Nation, but only exacts this penalty from citizens of the United States.

Now, your petitioners respectfully allege that they, and each of them, though citizens of the United States, are lawfully residing in said Chickasaw Nation, for that they procured from said Chickasaw Nation, in the manner required by law, permits authorizing each of them to reside in said Nation for the year 1888.

Your petitioners respectfully show to your honor that the seventh section of the treaty between the United States and the Choctaw and Chickasaw Nations of date the 22d of June, 1855, which said section is in no manner repealed or abrogated by the treaty of 1866, reads as follows, to wit:

"ARTICLE 7. So far as may be compatible with the Constitution of the United States and the laws made in pursuance thereof, regulating trade and intercourse with the Indian tribes, the Choctaws and Chickasaws shall be secured in the unrestricted right of self-government and full jurisdiction over persons and property within their respective limits; excepting, however, all persons with their property who are not by birth, adoption, or otherwise citizens or members of either the Choctaws or Chickasaw tribe; and all persons not being citizens or members of either tribe found within their limits shall be considered intruders, and be removed from and kept out of the same by the United States agent, assisted if necessary by the military, with the following exceptions, viz: Such individuals as are now or may be in the employment of the Government and their families; those peacefully traveling or temporarily sojourning in the country or trading therein under license from the proper authority of the United States, and such as may be permitted by the Choctaws or Chickasaws, with the assent of the United States agent, to reside within their limits, without becoming citizens or members of either of said tribes."

Now, your petitioners respectfully show that notwithstanding they nor either of them are by birth, adoption, or otherwise citizens or members of either the Choctaw or Chickasaw Nation, but are, and were at all the dates and times hereinbefore and hereinafter stated, citizens of the United States, and notwithstanding they and each of them are and were at all of said dates and times residing in said Nation by permission of said Chickasaw authorities with assent of the United States agent, and notwithstanding the above article of said treaty, expressly prohibits the said Chickasaws from exercising any jurisdiction over their persons or property, one Richard McLish, a Chickasaw citizen, aided and assisted by about fifty other Chickasaw citizens armed with guns and other deadly weapons, did, on the 16th day of July, 1888, proceed and forcibly, wrongfully, unlawfully, and in violation of the aforesaid article of said treaty, take and gather up a large number of cattle, which said cattle were then and there the property of citizens of the United States lawfully residing in said Nation, the said McLish pretending that he was taking said cattle to satisfy said penalty of \$1 per head due every thirty days upon each head of said cattle, he declaring that said cattle were liable to said penalty notwithstanding they belonged to citizens of the United States lawfully residing in said Nation, and that he would sell the same without any further or other warrant or authority. That at said time said McLish was not accompanied, aided, or assisted by any officer, agent, or military of the United States, and at said time was not endeavoring or intending to remove said cattle from said Nation, but was then and there unaided by any authority whatever but the Chickasaw authorities, intending to and proceeding to confiscate all of said cattle without any authority whatever save and except the above act of the Chickasaw Nation assessing a penalty of \$1 per head for each thirty days upon each of said cattle.

Now your petitioners allege that the acts of said Richard McLish and his posse being as above stated and wholly without authority as against these citizens or their property, these citizens and others acting in conjunction did proceed to where said McLish had said cattle herded, near Ardmore, in Pickens County, in the Chickasaw Nation (these citizens residing in said Pickens county) and did request him to deliver over to them those belonging to citizens of the United States over which he was, in violation of the treaty with the United States, proceeding to confiscate. That said McLish offered no resistance, and these petitioners quietly and peaceably cut out from said herd the cattle belonging to citizens of the United States who were lawfully in said Chickasaw Nation. That all parties then quietly and peaceably dispersed and went to their respective homes, agreeing to leave the question to your honorable Department as to whether in view of said 7th article of the treaty of 1855, and the laws of the United States and Chickasaw Nation, the said Chickasaw Nation has the right or power to enact a law imposing a penalty of \$1 per head on cattle belonging to United States citizens lawfully residing in said Nation every thirty days, and then to exercise jurisdiction over said property and forcibly take and sell the same in the absence of any judicial action in the courts of the United States.

Your petitioners respectfully contend that being citizens of the United States and lawfully residing in said Chickasaw Nation by their consent, that under said article 7 of the treaty of 1855 said Chickasaw authorities have no power or jurisdiction whatever to interfere with either them or their property, but if said Nation or its citizens desire any citizen of the United States or his property removed from said Nation, they must apply to and cause such removal to be made by the United States authorities, but petitioners contend that said Chickasaw Nation can not in any case or under any pretense take or exercise any jurisdiction of any kind whatsoever over the property of citizens of the United States, because the United States had in its said treaty expressly denied and prohibited them the exercise of any such jurisdiction.

Petitioners say that the above has been the ruling of J. Q. Tufts, former Indian agent of the Chickasaws, and said ruling has never been departed from or contended to be otherwise until a very recent date.

Your petitioners represent that to remove them or their property at this time or to permit their said cattle to be confiscated, as is attempted to be done as above shown, would prove the absolute ruin, financially, of about fifteen hundred citizens of the United States now residing in the Chickasaw Nation and in identically the same position as these petitioners. That to remove them now and cause a loss to them of their crops at this season of the year when there is no avocation which can be pursued by them to enable them to earn a livelihood, would be cruel and inhuman. That it would cause a loss to them of a lifetime's earnings which they have invested in improvements on farms in said Chickasaw Nation under lawful contracts made with its citizens, and your petitioners respectfully pray that in the event any order is issued for their removal that its execution be conditioned upon Chickasaw Nation or its citizens benefited, indemnifying and compensating these citizens and others in like condition for all permanent, lasting, and valuable improvements made by them on the lands of said Chickasaws with their consent.

Your petitioners earnestly pray that your honorable Department will carefully inquire into the rights of your petitioners in the premises and afford them that relief which a just Government should see that its citizens obtain. This statement of facts and appeal for justice is made directly to this honorable Department instead of through R. L. Owen, Indian agent at Muskogee, because it is claimed by the said McLish that nothing in favor of United States citizens ever passes beyond said Owen's office unless it meets with the views and approbation of said Owen, and further it is notorious that the said McLish claims that said R. L. Owen pigeon-holes all those petitions and prayers for relief made by citizens of the United States, unless they suit him. Wherefore, the premises considered, petitioners pray that the matters above stated be earnestly inquired into by this Department through the medium of some suitable disinterested party whom the Government shall select other than the said R. L. Owen.

All of which is respectfully submitted for such relief as this Department shall graciously grant them.

J. H. GARNETT,
Counsel for Petitioners.

THE STATE OF TEXAS, *County of Cooke:*

Before me, E. B. Walker, a notary public in and for Cooke County, Texas, on this day personally appeared A. W. Parker and G. M. Stewart, who being by me duly sworn on oath says that the matters and things set forth in the foregoing petition are true.

A. W. PARKER.
G. M. STEWART.

Sworn to and subscribed before me this the 21st day of July, 1888.

[SEAL.]

E. B. WALKER,
A Notary Public in and for Cooke Co., Texas.

WASHINGTON, D. C., July 23, 1888.

SIR: We have the honor to submit the following statement and petition on behalf of the Chickasaw Nation:

An act of the Chickasaw legislature known as the permit law, approved October 17, 1876, contains the following provisions:

"SEC. 5. *Be it further enacted*, That no permit shall be granted for a longer time than twelve months, and, in case of violation of any law of this Nation, the offender shall be ordered out of the limits of the Chickasaw Nation * * *."

"SEC. 7. *Be it further enacted*, That any person living in this Nation, under permit, shall not be allowed to bring into or hold more than five head of milch cows * * *."

An act in relation to stock unlawfully ranging and grazing in the Chickasaw Nation, approved October 14, 1886, contains the provision that if, at the expiration of thirty days after the stock of a non-citizen has been taken up by the superintendent, the owner or owners thereof shall have not appeared and identified it, the superintendent shall, after public advertisement describing said cattle or stock by kinds, marks, and brands, in at least three public places in the Chickasaw Nation, to be posted at least fifteen days, dispose of said stock or so much thereof as will pay \$1 per head, at public sale, to the highest bidder for cash, one-half of the proceeds of such sale to be retained by the superintendent, the balance to be turned over to the national treasurer for national purposes.

After the enactment of the above-mentioned statutes, and before October 18, 1887, certain persons, thirty-seven in number, who resided in the Chickasaw Nation, under the permit law of October 17, 1876, and held stock in excess of the allowance of that law, represented to the Commissioner of Indian Affairs that the Chickasaw authorities were about to enforce the provisions of the permit law, and of the act of October 14, 1886, by the sale of their cattle in satisfaction of the penalty of the last-mentioned act, and prayed that the executive authorities of the United States would interfere to prevent such execution of said law.

This petition of the permit men was forwarded by the Commissioner of Indian Affairs to the Secretary of the Interior on the 18th day of October, 1887. On the 28th day of October, 1887, the Secretary communicated to the Commissioner his decision in the following words:

"The legality of the Chickasaw permit law has already been held by competent authority not to be invalid, as recited in your report; and as the citizens of the United States, who may be residing in the Chickasaw country under permits granted thereunder, are subject to its provisions, this Department can see no reason why such persons should not also be subject to the requirements of the Chickasaw act of October 14, 1886, now under consideration, so far as it prescribes regulations for enforcing the provisions of section 8 of their permit law."

But the permit men, refusing to conform to the said laws of the Chickasaw Nation, or to the said decision of the Secretary of the Interior, have armed themselves, and now threaten forcible resistance to any attempt to execute the laws of October 17, 1876, and October 14, 1886.

The governor of the Chickasaws wishing to avoid bloodshed, and being confident that the presence and aid of United States troops will obviate all danger of bloodshed, respectfully requests the authorities of the United States to send a small detachment of soldiers to those points in the Chickasaw Nation where their services shall be required, in order to secure the enforcement of the statutes of October 17, 1876, and October 14, 1886, in accordance with the decision of the Secretary of the Interior, made on the 28th day of October, 1887. We inclose herewith an extract from the letter of Governor Guy.

Very respectfully,

G. W. HARKINS,
Delegate Chickasaw Nation.
H. E. PAINE,
Counsel Chickasaw Nation.

Hon. A. B. UPSHAW,
Commissioner of Indian Affairs.

MILL CREEK, IND. T. July 14, 1888.

Col. G. W. HARKINS,
Washington, D. C.:

DEAR SIR: I have been made the recipient of several communications from you, but have been so busy with militia and other business that I could not answer; to-day came to this point en route to Stonewall to deliver an address to the people of that county, and have a little time to write. I am now after those "resolution" fel-

lows, and will do what I can to have them ejected. They threatened me with violence and fire upon my militia if I went over into Pickens County. There are about three or four thousand intruders here, and I have appealed to United States agent for troops; I hope you will see Commissioner Upshaw and tell him I need assistance and nothing but necessity forces me to call upon Uncle Sam for aid. I do not think I will be fired upon unless we try to collect tax. I am waiting for troops before I try to collect tax from United States citizens residing under permits. They have told me they would resist me there. I am going to try to have all intruders put out. * * *

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 24, 1888.

To Agent OWEN,
Muscogee, Ind. T. :

Telegram of yesterday received. After conference with Secretary he directs that you expel with police from Chickasaw country all intruders not permitted there under Chickasaw law or seventh article treaty 1855. General Merritt authorized to aid you. Be judicious. Do not call for troops unless necessary. Further instructions mailed.

A. B. UPSHAW,
Acting Commissioner.

[Telegram.]

ADJUTANT-GENERAL'S OFFICE,
Washington, July 24, 1888.

Maj. Gen. GEORGE CROOK,
Commanding Division Missouri, Chicago, Ill. :

The Secretary of War desires you to communicate the following instructions to the Commanding General Department Missouri, for his action :

"The Indians (Choctaws and Chickasaws) are entitled to assistance of troops in ejecting intruders on their territory, as set forth in laws and treaties. The Indian agent on the spot will act under direction of the Secretary of Interior, and the officer sent on this duty will co-operate with him in expelling such intruders."

J. C. KELTON,
Assistant Adjutant-General.

[Telegram.]

CHICAGO, ILL., July 28, 1888.

ADJUTANT-GENERAL U. S. ARMY,
Washington, D. C. :

The following dispatch from officer sent with troops to Ardmore, received from Department Missouri :

"Have investigated cause of the recent troubles at Ardmore, Ind. T. No further trouble anticipated. Five of the ringleaders arrested by United States marshal and will be taken to Fort Smith. The ejection of intruders will settle difficulty. Everything now quiet."

GEORGE CROOK,
Major-General Commanding.

DEPARTMENT OF THE INTERIOR,
Washington, July 24, 1888.

SIR: Referring to the telegram of July 23 from Owen, Indian agent, in relation to affairs in the Chickasaw Nation, handed me by you this morning, I think you should telegraph the agent at once, directing him to expel with his police all intruders on the Chickasaw country, not permitted there under their law and the seventh article of the treaty of 1855, and that General Merritt has been instructed by the Secretary

of War to furnish him the support necessary; that he should be judicious in any action taken, and use troops only in necessity; and that written instructions will follow by mail.

And that you should immediately advise him by mail that it is provided by article 7 that "all persons, not being citizens or members of either 'tribe' (Choctaw, Chickasaw), found within their limits shall be considered intruders and be removed from and kept out of the same by the United States agent, assisted, if necessary, by the military, with the following exceptions, viz:

"Such individuals as are now or may be in the employment of the Government, and their families; those peacefully traveling or temporarily sojourning in the country, or trading therein under license from the proper authority of the United States; and such as may be permitted by the Choctaws or Chickasaws, with the assent of the United States agent, to reside within their limits, without becoming citizens or members of either of said tribes."

This article requires the Government to expel as intruders all persons not members of the tribe, with but three exceptions named: first, all those in Government employ and their families; secondly, those peacefully or temporarily sojourning or trading under United States license; and, third, those permitted by the Indians, with the assent of the agent, to reside within the limits. No difficulty is anticipated or understood to exist with reference to any but the third class of people; as to them, two conditions must concur, the permit by the nation and the assent of the agent. The nation has passed a general statute of permit, which is accessible to the agent. That statute imposes certain conditions and restrictions; unless they are observed and obeyed, the party who claims the benefit of the permission therein contained is not entitled to it and may be expelled as an intruder.

Any other person not a citizen or member of the tribe, or who claims to be there only by permission, who so misbehaves as to render his presence dangerous to the good order or peace of the tribe, should be expelled. General Merritt, commanding the United States troops in that region, has been instructed by the Secretary of War to support the agent and his police in their efforts to remove any intruders. He should see to it that the obligation of the Government to relieve these Indians of persons not entitled by treaty or law to be there is enforced and maintained. But he should be judicious and careful in his action to avoid collision and trouble, so far as possible, while he secures without fail the end desired.

A question has arisen whether the Chickasaw Nation has a right to impose a tax upon the property of non-citizens. It is believed that the nation has not, unless, as a condition of the permit for a non-citizen to reside there, it was agreed or provided that he should pay such tax or subject himself to their right to tax. The general permit law of the Chickasaws does not contain such a provision. But, while a tax may not in some cases be lawfully imposed upon the property of non-citizens, because the seventh article of the treaty referred to excepts from the jurisdiction of the Choctaw and Chickasaw Nations and from the right of self-government, "all persons, with their property, who are not by birth, adoption, or otherwise, citizens or members of either the Choctaw or Chickasaw tribe," yet, if any such persons keep cattle or other property in excess of the number allowed by the permit law, they may be required to remove it from the Territory, or on failure so to do, be expelled as intruders for breach of the condition of the permit.

With this information, the agent should be directed to proceed as indicated, and, whenever a special case appears to him to require it, to report the facts to your office for more specific instruction.

Very respectfully,

WM. F. VILAS,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 25, 1888.

SIR: Replying to your telegram of 23d instant, reporting that you had been officially informed "that on the 18th instant fifty-eight armed citizens of the United States, bearing a United States flag, forcibly recovered and drove off ten head of cattle from Richard McClish, stock superintendent of said nation," etc., I telegraphed you on yesterday, the 24th instant, as follows:

"Telegram of yesterday received. After conference with Secretary, he directs that you expel with police from Chickasaw country all intruders not permitted there under Chickasaw law, or seventh article treaty 1855. General Merritt authorized to aid you. Be judicious. Do not call for troops unless necessary. Further instructions mailed."

I now inclose herewith a copy of the honorable Secretary's written instructions to this office upon the subject, also dated July 24.

He instructs me to advise you that it is provided by article 7 of the above-mentioned treaty, that—

"All persons not being citizens or members of either tribe (Choctaw or Chickasaw) found within their limits, shall be considered intruders and be removed from and kept out of the same by the United States agent, assisted if necessary by the military, with the following exceptions, viz:

"Such individuals as are now or may be in the employment of the Government and their families; those peacefully traveling or temporarily sojourning in the country, or trading therein under license from the proper authority of the United States; and such as may be permitted by the Choctaws or Chickasaws, with the assent of the United States agent, to reside within their limits without becoming citizens or members of either of said tribes."

The Secretary observes that "this article requires the Government to expel as intruders all persons not members of the tribe, with but three exceptions named: first, all those in Government employ, and their families; secondly, those peacefully or temporarily sojourning or trading under United States license; and, third, those permitted by the Indians, with the assent of the agent, to reside within the limits. No difficulty is anticipated or understood to exist with reference to any but the third class of people; as to them, two conditions must concur, the permit by the nation and the assent of the agent. The nation has passed a general statute of permit, which is accessible to the agent."

The statute imposes certain conditions and restrictions; unless they are observed and obeyed the party who claims the benefit of the permission therein contained is not entitled to it, and may be expelled as an intruder. Any other person not a citizen or member of the tribe, or who claims to be there only by permission, who so misbehaves as to render his presence dangerous to the good order or peace of the tribe, should be expelled. General Merritt, commanding the United States troops in that region, has been instructed by the Secretary of War to support the agent and his police in their efforts to remove any intruders. He should see to it that the obligations of the Government to relieve these Indians of persons not entitled by treaty or law to be there, is enforced and maintained. But he should be judicious and careful in his action to avoid collision and trouble so far as possible, while he secures, without fail, the end desired.

The Secretary further observes that "a question has arisen whether the Chickasaw Nation has a right to impose a tax upon the property of non-citizens."

The Secretary thinks that the nation has not that right, "unless, as a condition of permit for a non-citizen to reside there it was agreed or provided that he should pay such tax, or subject himself to their right to tax," and he adds: "The general permit law of the Chickasaws does not contain such a provision. But, while a tax may not in some cases be lawfully imposed upon the property of non-citizens, because the seventh article of the treaty referred to excepts from the jurisdiction of the Choctaw and Chickasaw Nations, and from the right of self-government," all persons, with their property, who are not by birth, adoption, or otherwise citizens or members of either the Choctaw or Chickasaw tribe, "yet, if any such persons keep cattle or other property in excess of the number allowed by the permit law, they may be required to remove it from the Territory, or on failure to do so, be expelled as intruders for breach of the condition of the permit."

You are hereby directed to proceed as indicated in the Secretary's instructions, and should any special case appear to you to require more specific instructions, report the facts fully to this office.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

ROBERT L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 26, 1888.

SIR: I have received your letter of July 21 (instant) inclosing telegram from J. H. Garnett asking postponement of order removing A. W. Parker and G. M. Stewart and their property from the Chickasaw Nation until their statement shall have been received by this office.

In reply I have to state that Agent Owen has recently (July 24 and 25) received very specific instructions in relation to affairs in the Chickasaw Nation, which I trust will dispose of all such questions in dispute as that implied in the telegram referred to.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

Hon. SILAS HARE,
House of Representatives.

[Telegram.]

ARDMORE, IND. T., *August 2, 1888.*

Hon. COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.:

An officer of the Union Agency is here and has investigated the trouble with intruders in this section and has issued an order directing their removal, about thirty in number, within two days. I regard said order as absolutely necessary and just under the circumstances, and I most earnestly request and insist that said order of removal be not suspended on *ex parte* statements of paid attorneys and interested parties. I understand there will be a dispatch sent from Gainesville, Tex., asking for suspension of the order. If the removal is effected there will be peace in this section for years. I estimate there are three thousand intruders in this nation.

W. M. GUY,
Governor, Chickasaw Nation.

I indorse this dispatch as true and it correctly represents the situation here. The order of expulsion only embraces thirty names, all others who prove not to be willful intruders will be allowed permits and be treated with much tolerance.

D. M. WISDOW,
Chief Clerk.

ATOKA, IND. T., *May 4, 1888.*

DEAR FATHER: Came over to-day to see Dr. Folsom about the Mud Creek. We are still where we commenced. Dr. Allen was removed; came back within two or three days after he was ejected. Agent says he has done his duty towards rectifying the medical law. We can't get Governor McKinney to do anything it seems. Dr. Folsom has written him (governor) two or three times, and he has not heard a line from him yet. Allen has made his threats that he would not come before the Choctaw medical board time and again to different persons, and says he is going to stay any way. He came back and is doing a good practice. He makes from \$225 to \$250 per month. I am told by a good many that Allen has advised several so-called M. D's. not to come before the medical board, and some have never taken any notice to the board's notification. If we don't get help from some other source now I think we had better quit. Dr. Folsom says we must try every way possible to rectify the medical law, and we as the medical board beg of you and others, who will loan us a helping hand, to help us to bring these intruders to law, and make them comply with the law. We have notified the chief every month of every one who has been duly notified, and still they remain and practice against the law, not only on Lehigh and Caddo, but all over the Choctaw Nation. We have done all we can possibly do. We have notified the chief and agent until we are ashamed to beg of the chief to do something. So please help us in rectifying the medical law. Can we have anything else done with Allen, he says he will come back every week if they put him out? Are there no way to make him and all who are put out stay out? It's no use to put him out if he is let come back or any one else. The non-citizens are getting up a petition to send Owens to have him retained. The Knights of Labor and Odd-Fellows have had meetings and will send up a petition also to Owens. Please write me what can be done in his case, and if we can do nothing more we will quit. If we can put him out and make him stay out, we will have every one served alike. We want higher authority if we can possibly get it. Please inform us if we can get any higher authority and who to go to. By so doing, you will do us, as the board, a favor, that will be appreciated very highly, not only by the board but many citizens also. The Denison and Washita Railroad men, some from New York and St. Louis, were to meet in Lehigh this eve, and the men of Denison also. Have you heard anything lately of the Denison and Washita Railroad? Nothing of any note worth writing. We had a flood last Friday and Saturday night. Trains could not run for three or four days.

Your son,

G. W. HARKINS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, May 17, 1888.

SIR: Referring to a letter of the 4th instant from your son, relative to refusal of non-citizen physicians to comply with the Choctaw law which was filed in this office by you, I inclose for your information copy of a letter of even date herewith to Agent Owen on the subject.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

G. W. HARKINS, Esq.,
National Hotel, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS.
Washington, May 17, 1888.

SIR: G. W. Harkins has referred to this office a letter (copy herewith) of the 4th instant, from his son, G. W. Harkins, a member of the Choctaw medical examining board, complaining that non-citizen physicians refuse to take the medical examination required by the law, and that one Allen has been removed from the Nation for not complying with the Choctaw law regulating the issue of permits to physicians, etc., and that he has returned, saying that he intends to stay and practice medicine in that Nation.

The Choctaw authorities have the right under the treaties, to pass such laws, not inconsistent with the Constitution and laws of the United States, as may be found necessary to regulate the internal affairs of that Nation, and you will see that all non-citizen physicians who are reported to you by the proper Choctaw authorities, as refusing to comply with the law of the Nation relating to permits to practice medicine therein, are removed from the Territory.

If, after having once been removed, they return to the Choctaw Nation and attempt to continue the practice of their profession, you will again cause their removal, and report the facts of each case to the proper United States district attorney, with request that action be brought against the party under section 2148, Revised Statutes.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

R. L. OWEN, Esq.,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

TISHOMINGO, IND. T., July 6, 1888.

DEAR SIR: In accordance with treaty stipulations I respectfully demand of you, as agent of the United States, to remove from the limits of the Chickasaw Nation United States citizens who are willfully intruding therein. The list is a long one, probably reaching six or eight hundred. I have my officers now preparing these lists and will furnish them to you with evidence whenever the troops will come for their guidance. These parties are not only intruders, but they are willful intruders.

I have demanded of them by proclamation and personal demands, that they obtain permits as provided by our laws, and have been treated with contempt. I find myself powerless to control this element without using violence, to which I do not think it wise to resort. They have gone so far as to form and perfect secret organizations with preconcerted signals by firing of guns, and told me to my face that they did not think I had the courage to make my appearance in my own country.

I therefore demand in the name of the treaties and the obligations of the United States that troops be sent from the nearest available point, respectfully suggesting Fort Sill as the nearest point, and that Lieut. C. S. Hall, stationed there, he being familiar with the whole affair, should be sent with a troop of cavalry to relieve our country of the presence of this lawless set of people.

I have found it necessary to call out my militia for the protection of my people, but I do not propose to use them against these lawless citizens of the United States, and therefore I rely on the Government of the United States for protection.

Very respectfully, yours,

WM. M. GUY,
Governor Chickasaw Nation.

ROBERT L. OWEN, Esq.,
United States Indian Agent, Muscogee, Ind. T.

UNION INDIAN AGENCY,
Muscogee, Ind. T., July 9, 1888.

SIR: I respectfully transmit letter of Hon. William Guy, governor of the Chickasaw Nation, appealing for protection against intruders in his country. The new railroads in that country seem to have flooded them with intruders, and I am satisfied that his call for assistance is sincere and timely, and respectfully recommend that troops be ordered at once to be sent to this point, with instruction to eject those who are intruding on the Chickasaws.

They have tried very faithfully to protect themselves, and being unable to accomplish it, without violence and bloodshed, they now appeal to the Government. I suggest that action be immediately taken. Fort Sill, Ind. T., is the nearest point to Pickens County, where the intruders are located, and troops could be obtained from that post.

Your obedient servant,

ROBT. L. OWEN,
United States Indian Agent.

Hon. A. B. UPSHAW,
Acting Commissioner Indian Affairs, Washington, D. C.

GAINESVILLE, TEX., July 23, 1888.

DEAR SIR: I inclose a petition of certain United States citizens of Indian Territory, which is of vital importance to them, and I would like to have one of you, or both, make a suitable presentment of it to the honorable Commissioner of Indian Affairs, and say anything in behalf of petitioners that you may think justice warrants. I am anxious to forestall any violent and unjust proceeding on the part of either the governor of the Nation or the Indian agent, and I think the case deserves the consideration of the Interior Department, and that it has become necessary to reach the true state of affairs to send an agent of the Department to the scene of the trouble—one who will without bias hear the statements of both sides.

I hope I do not impose upon your valuable time and patience too much in making this request by the carrying out of which you will greatly oblige your humble servant, and at least 1,500 good American citizens who are interested in the outcome.

Yours, truly,

J. H. GARNETT.

Hon. R. Q. MILLS and Hon. SILAS HARE,
Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 7, 1887.

SIR: In reply to your communication dated May 14, 1887, received by Department reference, I have to state that you should support your wife's claim to citizenship before the Choctaw council, by such evidence as they will receive.

If they reject proper evidence, and decide the case adversely, she can appeal to the United States Indian Agent, who is required to receive all competent evidence and transmit the same to this office for the decision of the Department.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

JOHN STEWART, Esq.,
Caddo, Ind. T.

UNITED STATES INDIAN SERVICE,
Union Agency, Indian Territory, Muskogee, August ———, 1887.

SIR: In reply to your favor of March 23, 1884, transmitting a copy of office report, dated March 14, 1884, upon the question of intruders and disputed citizenship in the Choctaw Nation, and of the decision of the honorable Secretary of the Interior, dated March 15, 1884, I have the honor to make the following report:

As far as could be done, the disputed claimants to citizenship in the Choctaw Nation were directed to appear at the next session of the Choctaw Council, and submit their claims for adjudication as provided by the Choctaw laws.

I submit herewith a list of those claiming the rights of citizenship, as follows, to wit:

Names.	Presentation of claim, etc.	Remarks.
Enoch Austrey	Did not present claim, though notified.	Notified to appear June 25, 1884.
Wiley Adams	do	Notified to appear by Sheriff Darneal Oct., 1886, and by McCay in July, 1884.
C. M. Avery	do	Notified to appear June 25, 1884.
James Bragg	Presented claim to Choctaw Council.	Notified to appear June 29, 1884.
James Biddie	do	Notified to appear Oct., 1886.
J. N. Bynum	do	Notified to appear July, 1884.
Jos. Barnes	do	
Nancy C. Berryman	do	
Mary C. Barker	do	
Joseph Brown	do	
Mrs. Mike Ball	Did not present claim, though notified.	Notified to appear July 15, 1884.
Elizabeth Biddy	do	Notified to appear June 25, 1884.
R. D. Bell	do	Notified to appear June 9, 1884.
John, Edward, Joseph, Robert, and James Barnes.	do	Notified to appear June 28, 1884.
Sam Biddy	do	Notified to appear June 27, 1884.
H. C. Berryman	do	Notified to appear Oct., 1886.
Calvin Ballard	Did not appear to have been notified.	
William I. Boyles	do	
King Butler	do	
Martha Carroll	Presented claim to Choctaw Council.	
Jehu Casey	do	Notified to appear June 19, 1884.
Elizabeth Casey	do	
W. S. Coker	Did not present claim, though notified.	Notified to appear June 12, 1884.
A. F. Cowling	do	Notified to appear June 23, 1884.
Sebron or Sebson Coker	do	Notified to appear June 12, 1884.
Jno. M. Carrigan	do	Notified to appear June 11, 1884.
Nancy Caroline	Did not appear to have been notified.	
Elizabeth Deaton	Presented claim to Choctaw Council.	
S. A. Donald	do	Notified to appear Oct., 1886.
Elizabeth Donald	do	Do.
Bail Decker	Did not present claim, though notified.	Notified to appear June 28, 1884.
Thomas Dickerson	do	Notified to appear June 29, 1884, and July, 1884.
Abraham Deaton	do	Notified to appear June 28, 1884.
Larkin Duval	do	Notified to appear June 19, 1884.
Stephen A. Donald	Presented claim to Choctaw Council.	Do.
William Decker	Did not present claim, though notified.	Notified to appear Oct., 1886.
William Dickerson	Did not appear to have been notified.	
Philip Dickerson	do	
James Daggs	do	
Frank Elwood	Did not present claim, though notified.	Notified to appear June 12, 1884.
L. C. Edmiston	do	Do.
Mike French	do	Notified to appear June 25, 1884.
Thomas French	do	Do.
Patrick J. French	do	Do.
William O. French	do	Do.
Mary and Joshua Goddard ..	Presented claim to Choctaw Council.	
Elizabeth Grant	do	
Daniel Grant	do	
Joseph Glenn	do	
John C. Glenn	do	
Jesse George	Did not present claim, though notified.	Notified to appear June 20, 1884, and Oct., 1886.
John W. George	do	Notified to appear June 28, 1884.
James A. Guy	do	Do.
Jefferson Guy	do	Do.
Charles A. Glenn	do	Notified to appear June 25, 1884.
Alfred A. Glenn	do	Notified to appear June 27, 1884.
Sarah Glenn	do	Do.
William H. Goldsboro	Did not appear to have been notified.	

Names.	Presentation of claim, etc.	Remarks.
Caroline M. Hazel	Presented claim to Choctaw Council.	
W. W. Harper	Did not appear to have been notified.	
L. S. Hill	Did not present claim, though notified.	Notified to appear June 12, 1884.
James C. Hulsey	do	Notified to appear June 30, 1884.
E. Haskett, or Huskett	do	Notified to appear June 27 and July, 1884.
Jack Hase	do	Notified to appear June 12, 1884, and Oct., 1886.
William W. Harper	do	Notified to appear June 27, 1884.
Samuel Harvey	Did not appear to have been notified.	
Susan Hall	do	
Thomas Huse	do	
Tom Huggins	do	
A. P. Jennings	Presented claim to Choctaw Council.	
Harrison Justice	do	
Emily Jones	Did not present claim, though notified.	Notified to appear June 28, 1884, and Oct., 1886.
Tom Jones	Did not appear to have been notified.	
Wilson M. King	Presented claim to Choctaw Council.	Reported as notified by J. F. McCurtain.
Henry Kane	Did not present claim, though notified.	Notified to appear June, 5, 1884.
James Langford	Presented claim to Choctaw Council.	Notified to appear Oct., 1886.
William Langford	do	
W. A. Lewis	Did not present claim, though notified.	Notified to appear June 22, 1884.
James Lorden	do	Notified to appear June 10, 1884, and Oct., 1886.
Charles Lewis	do	Notified to appear June 27, 1884.
Laul Thomas	Did not appear to have been notified.	
Fanny Mathews	Presented claim to Choctaw Council.	
Harmon Mickle	do	
Wm. McH. Morris	do	Notified to appear Oct., 1886.
Wm. McCagee Moore	do	Do.
Chas. McNally	Did not appear to have been notified.	
Mrs. Jerry McArthur	Did not present claim, though notified.	Notified to appear June 16, 1884.
Blacknot McArthur	do	Do.
William McDonna	Did not appear to have been notified.	
Henry Marshall	Did not present claim, though notified.	Notified to appear June 17, 1884.
Chas. L. Morton	do	Notified to appear June 12, 1884.
Mills James	do	Do.
John N. Moore	do	Do.
William E. Moore	do	Do.
Frank Morgain	do	Notified to appear June 12, 1884, and July, 1884.
McNally	do	Notified to appear June 8, 1884.
McCall Ro	do	Notified to appear June 28, 1884.
Charles L. Moore	Did not appear to have been notified.	
Mack McCarty	do	
Lavanda Nicholas	do	
Elisha H. Paft	Did not present claim, though notified.	Notified to appear June 25, 1884, and Oct., 1886.
Christopher C. Payne	do	Notified to appear June 30, 1884.
Nathaniel Parkerson	do	Notified to appear June 28, 1884.
Charles Price	Did not appear to have been notified.	
James Patterson	do	
A. Frank Ross and W. T. Ross	Presented claim to Choctaw Council.	
William T. Stephens	do	Notified to appear June 29, 1884.
Franklin Strube	do	Notified to appear June.
Nellie Sweeten	Did not appear to have been notified.	
Sweeton Marian	Did not present claim, though notified.	Notified to appear June 23, 1884.
Joseph Smith	do	Notified to appear June 27, 1884, and Oct., 1886.
William F. Stacy	do	Notified to appear June 19, 1884.
George Stephen	Did not appear to have been notified.	
West Sappington	do	

Names.	Presentation of claim, etc.	Remarks.
M. W. Sittle.....	Did not appear to have been notified.	
Joseph Tucker.....	Presented claim to Choctaw Council.	Notified to appear Oct., 1886.
James Turnbull.....	Did not present claim, though notified.	Notified to appear June 20, 1884.
William Tucker.....	do	Notified to appear June 27, 1884.
Margare Tucker.....	do	Notified to appear June 13, 1884.
E. W. Tucker.....	do	Do.
G. W. Tucker.....	do	Notified to appear June 12, 1884.
Babe Thompson.....	do	Notified to appear June 21, 1884.
James Tucker.....	do	Notified to appear June 19, 1884.
Thomas N. Treadway.....	do	Notified to appear June 27, 1884.
Barbra Thurston.....	Did not appear to have been notified.	
Abe Thompson.....	do	
Lindsey Williams.....	Presented claim to Choctaw Council.	
John Wheelons.....	Did not present claim, though notified.	Notified to appear June 27, 1884.
Nelson Winters.....	do	Notified to appear June 10, 1884.
John Wiles.....	do	Notified to appear June 28, 1884.
Stephen Wells.....	Did not appear to have been notified.	
William Whitening.....	do	

The following cases appealed to this office, and reports are herewith submitted, to wit:

A. Frank Ross, W. T. Ross, James Biddie, Mary Goddard, Elizabeth Grant, Martha Carroll, Fanny Mathews, James Bragg, William T. Stephens, Harmon Mickle, Wilson M. King, William McH. Morris, J. N. Bynum, Franklin Strube, Joseph Tucker, Caroline M. Hazel, Henry Harrison Justice, John C. Glenn, et al., Jehu Casey, Nancy C. Berryman, James Langford, William Langford, Mary C. Barker, Elizabeth Deaton, Elizabeth Casey, Linsey Williams, W. M. Moore, S. A. Donald.

These are the only appeals that I find on record in this office when I took charge. As full notice as I was able to give by general publication in the newspapers was given that I would hear all cases of appeal from the decision of the Choctaw authorities, at Tush-ka-Homma, the first week of October, and there I heard and received all evidence that was submitted to me in these cases, allowing the claimants to be represented by counsel, as well as the nation. I heard these cases as promptly as the other duties of this office would permit, and now submit the evidence in each case, with my findings thereon, to your office for final adjudication.

In these several cases, while I have called attention to the law and treaty, which seemed to be proper in each case, I think it proper to give a general sketch of the Choctaw law, and custom and treaty which seems to bear upon the subject, together with my opinion as to what would be a proper policy in reference to these cases.

In your letter of July 20, 1880, this agency was instructed that, "In all cases presented to it by the Cherokee authorities for removal, when the parties named claimed citizenship either by blood through the father or mother, or by virtue of adoption according to the laws and customs of the Cherokees, after making the proper investigation, if you are satisfied they have prima facie and a just claim to citizenship, you will permit such persons to remain in the Territory to await final action in their cases, which will be hereafter determined under such rules as may be hereafter adopted by the Department," and this action has been used as a guide with the other nations.

In passing upon the question of citizenship, it is necessary to determine what constitutes the right of citizenship, whether by blood or adoption, according to the laws and customs of the Choctaws. This right has never been defined by the Choctaws except by implication.

I find in the treaties with the Choctaws certain rights are granted by the United States to members and citizens of the Choctaw Nation, as the other high contracting party, and the question is, Who are entitled to enjoy those rights? Who are members and citizens of the Choctaw Nation? Who may claim the right to demand such recognition at the hands of the Choctaws, and appeal against the decision of the Choctaws, under the act of 1882 of the Choctaw legislature, to the United States Indian agent, subject to the revision of the Indian Office? Certainly it will not be disputed that those who are of Choctaw blood, reside in the Choctaw Nation, have always resided with the Choctaws and been recognized as Choctaws, and have never been expelled by the Choctaws from the Choctaw country, in accordance with Choctaw law, are citizens of the Choctaw Nation. It will not be denied that those who have been adopted by the Choctaw legislature, and have not by their own act, under the Choctaw law, deprived themselves of the privileges granted, are also

Choctaw citizens and are entitled to enjoy those rights; but there are other classes of persons, over whose citizenship there is much dispute, grading from those who claim to be always resident and belonging to the classes above named, to those who claim they were once residents and have now returned, or, still further, to those who claim they were descended, as in the case of the Glenns, Tuckers and Barnes', from a person born 120 years ago, who is alleged to have been of Choctaw blood, and the equally attenuated claims of a white person marrying the white daughter of a white mother who had married a white man who previously had a Choctaw wife.

It has been the Choctaw custom, as far back as the laws are printed, for persons who had removed out of the Choctaw Nation, when they desired to return, to petition the Choctaw Council for re-admission. The act of October 14, 1847, grants to the late and new immigrant equal rights with the old settlers. The act of October, 1849, liberated and allows citizenship to a Creek Indian woman, then in bondage.

The act of October 11, 1849, confers citizenship on John McGilbra. The act of November 9, 1853, confers citizenship on various persons, and it has been the custom for persons desiring citizenship, and whose citizenship has become a matter of dispute by their removing out of the country for any considerable period of time, to petition the Choctaw council and receive recognition.

There appears to have been no law specially enacted declaring forfeiture of citizenship by this removal, but by consent of the petitioning class and the Choctaw legislature, it appears that continued absence from the Choctaw Nation for such time as would cause great uncertainty of citizenship, made it incumbent on the party to present a petition and support it by proof as to his blood or adoption, and be re-admitted by act of the legislature.

The Cherokee custom was similar, but was reduced to writing, and in their constitution it was plainly declared that any person moving out of the Cherokee Nation with his effects, becoming a citizen elsewhere, lost his right as a citizen of the Cherokee Nation after an absence of two years, and must be re-admitted by an act of the Cherokee national council, which has authority under the constitution to pass upon this question, and later laws of the Cherokee Nation strictly forbid persons having forfeited citizenship in this manner, or persons claiming citizenship from any cause whatever, to be re-admitted before they exercised any rights of citizenship.

The Supreme Court of the United States, in the North Carolina case, declared that persons resident in the States, who desired to exercise the rights of citizenship in the Cherokee Nation, must be re-admitted as provided in their constitution, and I think the same principle should be held in the case of the Choctaws, according to their customs and laws.

Bill No. 65, of November 5, 1886, recites as follows:

"Whereas, the Choctaws are and have ever been disposed to accord the people of their blood any right they may have, they feel bound to adhere to the long and recognized usages of their Nation, and to exclude from those rights all claimants whose blood is so remote and uncertain, that the appellation of 'Indian' would be a misnomer.

"It is not now, and never was considered, obligatory upon the Choctaw Nation to admit into their tribal organization any people who might claim, or perchance have in their veins small quantities of Choctaw blood. The policy adopted by this Nation for many years previous to the war, and treaty of 1866, was to allow all white persons from the limits of the Nation who married according to existing laws on the subject, the rights of citizenship. These rights of citizenship were courtesies extended to the marriage relation, and the rights conceded by them were matters of grace rather than matters of right, nor were there any law or treaty stipulations upon the rights thus conceded, as they were deemed by the Nation steps to its civilization, and the upbuilding of their Nation.

"The necessity of legislation upon this subject has been brought to the attention of the Nation by the large number of persons presenting their claims for citizenship at its yearly sessions. The claimants claim rights upon every conceivable ground imaginable. The admission of these claimants is actuated largely by the inducement held out to them by what they may be entitled to hold when admitted. The amount thus acquired by admission in round numbers being \$2,500, is so great that it becomes the duty of the Nation to prescribe by legislation some preserving principle by declaring that the applicant should have in his veins Choctaw blood to the extent of one-eighth Choctaw, and it should there be understood and declared that the rights thus conceded to persons from the outside to the inside with the rights asked for or claimed are matters of grace on the part of the Nation rather than right demandable of the Choctaws, and enforceable by the Government of the United States."

The act then goes on to declare that non-citizens presenting petition to the general council for the rights of a Choctaw in the Nation, shall be required to have at least one-eighth Choctaw blood, and prove it by competent testimony, and that such persons shall never have been convicted of any felony or high crime, etc. The pre-

amable to this act is of much significance, showing that the Choctaw custom and the law is the same as that of the Cherokees to all intents and purposes, and I am of the opinion that it is substantially right.

The theory that having a Choctaw ancestor entitles one to citizenship in the Choctaw Nation is a very absurd conclusion, as in the Abigail Rogers case, alleged to be half Choctaw and born in 1760, and moved out of the Choctaw Nation at that time, has five hundred descendants more or less of almost pure white blood who, having lived in the States a century more or less, now coolly congregate in and about the Choctaw Nation, demanding rights of the Choctaw people. I am of the opinion that citizenship in a community of this kind, as well as in more highly organized communities, necessarily involves certain duties to the community as a matter of common right and justice. Chief among the duties of citizenship in civilized communities is residence, good neighborship, and all the help that can be rendered by a citizen to a community in times of distress and trouble, and if during such period, and certainly until the Choctaws were located in this western country, their condition was one of trouble and trial, it was the duty of her citizens to faithfully uphold the Choctaw Nation, and exercise every act of citizenship, and perform every duty of citizenship necessary to sustain that organization, and it would appear that if a party deliberately severed himself from the Choctaw community, and became a citizen of Arkansas or of Texas and exercised the functions of such, that by his own act he ceased to be a member of that community, and could only resume or again become endowed with his abandoned prerogatives by a formal adoption by the people whom he had deserted.

Article 6 of the Choctaw and Chickasaw treaty of 1855 stipulates that the Choctaws and Chickasaws shall be secured in the unrestricted right of self-government, and full jurisdiction given persons and property within their respective limits, excepting all persons, however, with their property, who are not by birth adopted or otherwise citizens or members of either the Choctaw or Chickasaw Nation, and all persons not being citizens or members of either tribe found within their limits shall be considered intruders and removed from and put out of the same by the United States agent.

It appears to me that unrestricted self-government promised to the Choctaws and full jurisdiction over their citizens necessarily involves the right to the Choctaws of declaring who their citizens are, certainly in all dubious cases at least or where the citizenship is not self-evident. It would appear, further, that the Choctaw Nation, being one party to the treaty and the United States being the other, that the Choctaw Nation being an organized government and recognized as such, would have the right and the exclusive right by virtue of this recognition to declare who compose its members, in so far as they claim the right of participation in the common funds of the Choctaws. Article 14 of the treaty of 1855 guarantees the Choctaw Nation protection from domestic strife, hostile invasion, and from aggression of other Indians and white persons not subject to their jurisdiction and laws. Persons who, under the laws of the United States, are citizens of the United States, although they might be one thirty-second proportion of Choctaw blood, might be properly called white persons not subject to their jurisdiction and laws, unless they had been continuously resident, had continuously claimed Choctaw citizenship, and had been continuously accepted by the Choctaw Nation as citizens of the Choctaw Nation. Such mutual consent would remove such persons from this classification; but if they were 31-32 of the white blood, were residents of the States, entitled to citizenship under the United States laws, were not accepted by the Choctaw Nation as citizens, they would certainly come under the classification named in the fourteenth article, to wit, white persons not subject to their jurisdiction and laws, from whose aggression the United States had promised the Choctaws protection.

Article 43 of the treaty of 1866 guarantees that no white person shall be permitted to go into the Choctaw territory "unless formerly incorporated and naturalized by the joint action of the authorities of both nations into either of said nations of Choctaws and Chickasaws, according to their laws, customs, or usages. This action is in conformity with the previous guarantees from intrusion, and the term "white person" describes any person, probably, more largely white than Indian, so as to be properly described by the term "white person," the real meaning being, citizens of the United States, who are not recognized by the Choctaws as citizens of the Choctaw Nation.

Much stress has been laid upon article 38 of the treaty of 1866, relative to rights of citizenship alleged to be conveyed by this section: This article reads as follows:

"Every white person, who having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw Nation, or who has been adopted by the legislative authorities, is to be deemed a member of said nation, and shall be subject to the laws of the Choctaw and Chickasaw Nations according to his domicile, and to prosecution and trial before their tribunals, and to punishment according to their laws in all respects as though they were a native Choctaw or Chickasaw." Some persons contend that this article makes a United States citizen a member of said nation to all intents

and purposes, and that he ceases to be a United States citizen, and that his white children by a white wife thereafter are none the less Choctaws because descended from this artificial Choctaw.

I am of opinion that by this article is simply intended that white persons at that time married to Choctaws or Chickasaws are to be deemed citizens of one or the other nations according to his domicile, without involving anything further than the right of residence and the usual privileges of citizenship by courtesy of marriage, and that this section was specially intended to give the Choctaw courts jurisdiction over such persons as voluntarily united themselves with the Choctaws by marriage, and that it was not intended by this section to give to United States citizens any special rights in the Choctaw Nation, for the Choctaws and Chickasaws themselves had given United States citizens the rights of citizenship where they had intermarried. On page 106 of the Code of 1869 will be found a law of the Choctaws requiring white men living with Indian women in that nation without being lawfully married to be lawfully married or leave the nation, and forbidding any white man of bad character to marry an Indian woman; and long before, in October, 1840, reference is made to the fact that white men intermarrying with Choctaw women should have the right of citizenship, but should forfeit it if they left their wives without just provocation; and this section of the treaty was not intended by the Choctaws or of the United States for the purpose of securing United States citizens Choctaw citizenship, but was simply intended to secure the Choctaw courts jurisdiction over those who voluntarily intermarry among them. I am of opinion that such intermarried white persons are subject to the laws of the Choctaw Nation, and consequently subject to the Intermarriage Act, passed November 9, 1875, to be found in the Choctaw Code of 1887, chapter 8, section 1. This act prescribes the conditions under which a white man may marry a Choctaw woman. Marriages not contracted as provided in this act are declared null and void.

Paragraph 3 of this act provides for the punishment of persons in solemnizing marriages between citizens of the United States and Choctaw women except as provided and directed by law. Paragraph 4 reads as follows:

"Should any man or woman, a citizen of the United States or of any foreign country, become a citizen of the Choctaw Nation by intermarriage as herein provided and be left a widow or widower, he or she shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or a white woman, as the case may be, having no rights of Choctaw citizenship by blood; in that case all his or her rights accorded by the provisions of this act shall cease."

Paragraph 5 reads as follows:

"Every person who having lawfully married under the provisions of this act and afterwards abandoned his or her wife or husband shall forfeit every right of citizenship, and shall be considered as intruder, etc."

In so far as this law is not *ex post facto*, I am of the opinion that persons intermarrying into the Choctaw Nation are bound by its provisions and may lose their right of membership, as provided in this law, by marrying United States citizens or abandoning their Choctaw spouse. On page 9, section 21, code of 1869, of Choctaw constitution it is provided that the General Council shall pass no retrospective law, nor law marring the obligation of contracts. The marriages of widowers of white blood to white women which took place prior to November 9, 1875, I am of the opinion this law does not apply to deprive them of their membership in said nation.

In regard to the evidence submitted in these cases, I do not think that affidavits should be received as evidence, for the reason that they may be fraudulently obtained with great ease and impunity, as it is easy to find irresponsible persons to appear before thoughtless or neglectful, or careless officers, and make these affidavits for a trifling consideration; and the Choctaws have but little opportunity and too little executive ability to make it dangerous for those who choose to commit such frauds, and it is very rare in my experience that it becomes necessary for persons claiming citizenship with just right to recognition to resort to such means to prove the facts on which they rely, as the Indian people are remarkable in keeping up family history and keeping the run of each other.

For this reason I have not regarded the mere affidavits as worthy of acceptance unless fully corroborated otherwise, and reasons shown for affidavits being submitted instead of depositions, or the witnesses presented in person.

I have the honor to be, your obedient servant,

ROBT. L. OWEN,
United States Indian Agent.

Hon. J. D. C. ATKINS.

Commissioner of Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October 4, 1887.

SIR: On the 21st of October, 1882, the Choctaw council passed an act in regard to intruders and claimants to citizenship within that nation, which act received the approval of the Department March 15, 1884.

On the 22d of the same month, Agent Tufts was instructed to notify all disputed claimants to citizenship in the Choctaw Nation, whose names should be furnished him by the Choctaw authorities, to appear at the next session of the proper tribunal and submit their claims for adjudication, as provided by the Choctaw laws; that failing to do so they would be deemed intruders and removed from the Territory; and that any party feeling aggrieved by the decision of the Choctaw tribunal would be allowed thirty days in which to appeal to the agent, at the expiration of which time they would be deemed intruders if no appeal was taken.

He was instructed to hear all cases of appeal, given proper notice to the principal chief of the time and place of hearing, receiving and considering such proper evidence without distinction as to the race of witnesses, as might be presented, and allowing the claimants as well as the nation to be represented by counsel.

He was further instructed to hear all appeals as promptly as possible, and submit the evidence in each case, with his findings thereon, to this office for final adjudication. (See annual report of this office for 1884, p. XLIV.)

Owing to the pressure of other business no action appears to have been taken by the agent in the matter of appeals under these instructions until last year.

I am now in receipt of a report from Agent Owen, dated September 2, 1887, with which he transmits a list of those claiming citizenship in the Choctaw Nation, and the evidence and findings in the cases where appeals were taken and prosecuted. The list presented includes three classes of those claiming citizenship in that nation, viz:

(1) Those who do not appear to have been notified to present their claims as required by the instructions of March 22, 1884.

(2) Those who did not present their claims although notified to do so.

(3) Those who presented their claims to the council.

As to the first class, it is thought that no action should be taken until they have been duly notified.

The second class having failed to comply with the notice given, should be regarded as intruders and steps taken to secure their removal.

All of the third class, with one exception, appear to have appealed from the decision of the Choctaw council.

The claims of those who have appealed are based upon marriage to an alleged Choctaw, or upon Choctaw blood or descent. The claim of the former involve mainly questions of law rather than fact, so that an examination of the laws and treaties bearing upon citizenship by marriage or adoption becomes necessary before referring to the cases based upon marriage.

An act of the Choctaw council, approved October 1840, provided that no white man should be allowed to marry in the nation unless he had been a citizen of the same for two years, and required him to procure a license from some judge or district clerk and be lawfully married by a minister of the gospel, or some other authorized person, before he should be admitted to the privilege of citizenship. It also provided that a white man parting from his wife without just provocation should be deprived of citizenship.

The act of the Choctaw council, approved November 9, 1875, regulates intermarriages between Choctaws and citizens of the United States. The seventh section provides—

"That should any man or woman, a citizen of the United States or of any foreign country, become a citizen of the Choctaw Nation by intermarriage, and he or she be left a widow or widower, he or she shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person, as the case may be, having no rights of Choctaw citizenship by blood; in that case all his or her right acquired under the provisions of this act shall cease."

The last clause of the fourth article of the Choctaw treaty of September 27, 1830 (7th Stats., 334), is as follows:

"But the Choctaws, should this treaty be ratified, express a wish that Congress may grant to the Choctaws the right of punishing, by their own laws, any white man who shall come into their nation and infringe any of their national regulations."

The seventh article of the treaty of June 22, 1855 (11 Stats., 612), provides that—

"So far as may be compatible with the Constitution of the United States and the laws made in pursuance thereof, regulating trade and intercourse with the Indian tribes, the Choctaws and Chickasaws shall be secured in the unrestricted right of self-government and full jurisdiction over persons and property within their respective limits; excepting, however, all persons with their property, who are not by birth, adoption, or otherwise, citizens or members of either the Choctaw or Chickasaw tribe," etc.

The treaty of April 28, 1866 (14 Stats., 169), contains two articles relating to citizens by marriage.

Article 26 guaranties a certain right to such citizens, as follows:

"The right here given to Choctaws and Chickasaws, respectively, shall extend to all persons who have become citizens by adoption or intermarriage of either of said nation, or who may hereafter become such."

The right referred to is that of making individual selections of land to be held in severalty and evidenced by patent. (See article 25.)

Article 38 reads as follows:

"Every white person who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw Nation, or who has been adopted by the legislative authorities, is to be deemed a member of said nation and shall be subject to the laws of the Choctaw and Chickasaw Nations according to his domicile, and to prosecution and trial before their tribunals, and to punishment according to their laws in all respects as though he was a native Choctaw or Chickasaw."

The attorney for certain of the appellants claims that, under these two articles, a white man, when he marries a Choctaw woman, becomes *ipso facto* a member of said nation and acquires all the rights that a native-born Choctaw has, "no more, no less." In support of this claim he misquotes article 26, as follows: "The rights here given to Choctaws and Chickasaws," etc. The word in the treaty is "right" not "rights," and clearly and indisputably refers to the one right of selecting land in severalty given by article 25.

It is claimed on behalf of the nation that article 38 was inserted for the purpose of giving the Choctaws full jurisdiction over their adopted citizens and not for their protection as claimed by the appellants. The principal question involved in this class of cases is, therefore, have the Choctaws the right to deprive a citizen of that nation, by marriage, of his citizenship, on account of subsequent marriage to a non-citizen? Or, in other words, is the seventh section of the Choctaw act of November 9, 1875, valid?

The attorney, for certain appellants, before referred to, in his principal brief states that there are but two ways known to civilized nations in which citizenship once acquired may be lost or forfeited: (1) By formal renunciation and oath of fealty to another government. (2) By being convicted of an infamous offense." To these methods, he admits, the Choctaws have added a third: "When a white man parts with his wife, without just provocation, he shall be deprived of citizenship." He then argues that as there is no prohibition to the marriage of a native or member of the tribe to an alien or white woman, there is no way to deprive a white citizen of any right enjoyed by any other member of the tribe against his will, without fault of his. However, he makes no allusion to the act of November 9, 1875, and seems to be unaware that the Choctaws have done by law what he says can not be done legally.

The term "citizen" is understood as conveying the idea of membership of a nation and nothing more (21 Wall., 162). "Citizen" and "member" of the nation appear to be used synonymously in the treaty. Article 26 secures the right to land to "citizens" by adoption or intermarriage, while article 38 gives the Choctaws jurisdiction over "members of the nation" by adoption or intermarriage. The civil rights of a citizen (or member) of a State are defined by the supreme court (16 Wall., 76), to be "protection by the Government, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; subject, nevertheless, to such restraints as the Government may prescribe for the good of the whole."

Political rights are usually conferred on a portion of the citizens only—as, for instance, in the United States—upon male citizens only. The Choctaw constitution provides that no person shall hold certain offices unless he be a free male citizen of the Choctaw Nation, and a lineal descendant of the Choctaw or Chickasaw race. The Choctaws have encouraged the intermarriage of their people with the white race and confers rights by membership in the tribe upon members of the white race so intermarried. It however restrains this class of its citizens from intermarrying with others, alien to the nation. This restraint, I believe, to be such an one "as the Government may prescribe for the good of the whole." They encourage intermarriages, because thereby the native blood of the offspring is enriched by the infusion of the blood of another race, but the native blood still exists, and will continue to exist in future generations. The intermarriage of an adopted citizen with an alien, however, produces an offspring having none of the native blood, and introduces into the nation a race wholly alien and utterly devoid of the native blood. I believe the Choctaws are competent, under their treaties to make laws for their self-government, which shall restrain their adopted citizens from introducing such alien race, and that the act of November 9, 1875, is valid and binding as to such marriages contracted subsequent to its passage. Those who were affected by it are bound to take knowledge of it, and are presumed to have remarried outside the nation, with full understanding of the consequences that would result therefrom. In the decision of

the cases at bar, this act should be given full force and effect. It is also claimed, on behalf of certain appellants, that where marriages are contracted between an adopted citizen and an alien, that the latter, as well as children of the union, become citizens of the nation. This claim is based upon the argument, that there can be no distinction between citizens by blood and those by descent. This claim is carried so far that in one case the claimant is a white man who married the white daughter of a white woman who had married a white man whose first wife had been a Choctaw.

I do not think it was the intention of the treaty to extend the jurisdiction of the Choctaws beyond citizens by blood and those married to citizens by blood or descent.

Another class of cases presented involves the question as to whether the descendants of a person recognized as a Choctaw, but who separated himself from the tribe and acquired and exercised the rights of a citizen of a State, are entitled to recognition as members or citizens of the Choctaw Nation as a matter of right. Agent Owen comments at length on this question, taking the general ground that such persons can not claim citizenship as a matter of right, but only as a matter of grace. If this question involved simply the rights and privileges of citizenship, it would not only be easy of solution but would rarely arise. The right of a citizen of one nation to renounce his allegiance to that nation and assume fealty to another is too well established in this country to require argument. In cases where members of the civilized nations have done this, they have generally had sufficient white blood to enable them to be recognized as citizens of the State in which they reside, and of the United States, without question. This matter, however, is complicated with questions of property rights.

The Choctaws are comparatively a wealthy people both in lands and money, and hence the anxiety of those who have been told that they "look like Choctaws" to have their fortunes united with their alleged brethren. Strictly speaking, it is true that the interest of a recognized Choctaw in and to the common property of the Nation descends from generation to generation unless it be forfeited by some act of the ancestor or of the descendants. So far as I can ascertain, neither Choctaw constitution, laws, or treaties contain any provision on this subject, except the act of October 9, 1836, which provides that no person belonging to any tribe of Indians or people, not a descendant of the Choctaws, shall be permitted to settle in the nation, unless by permission of the general council, and the act approved October 14, 1847, which provides that "all the late and new emigrant Choctaws to this country shall have equal rights with the old settlers in participation of the schools of this nation."

Agent Owen states it has been the Choctaw custom, as far back as the laws are printed, for persons who had removed out of the Choctaw nation, when they desired to return, to petition to the Choctaw council for re-admission, and cites the act of October 14, 1848, above quoted, and the acts of October, 1849, October 11, 1849, and the act of November 9, 1853. The first of these three acts liberates a Creek woman, then in bondage, and admits her to citizenship; the second confers citizenship on John McGilbree, a Creek, and the third on certain persons therein named, all of whom were Catawba Indians. He further says, "It has been the custom for persons desiring citizenship, and whose citizenship has become a matter of dispute by their removing out of the country for any considerable period of time, to petition the Choctaw council and receive recognition."

The acts approved October 20, 1877, and October 22, 1880, admit certain persons to citizenship, including white husbands of certain women.

The act approved November 5, 1880, declares Mrs. Mary Burgevin, her children by a former marriage, and her grandchildren, to be entitled to all the rights and privileges of citizens by blood of the Choctaw nation.

The act approved November 1, 1881, declares the grandchildren and great-grandchildren of Mrs. Emily Yates to be of Choctaw descent through the male line, and as such entitled to the rights, etc., of citizenship in the nation. Another act approved on the same day establishes the citizenship by descent of Mary M. Rogers and others.

The act approved November 3, 1882, establishes the rights of Martha E. Quinton and her children as Choctaw Indians by blood.

The practice since 1877 appears, therefore, to be as stated by Agent Owen. He also states that by consent of the petitioning class and the Choctaw legislature, it appears that continued absence from the Choctaw nation for such time as would cause great uncertainty of citizenship made it incumbent on the party to present a petition and support it by proof as to his blood or adoption, and be re-admitted by act of the legislature. He also refers to the decision of the Supreme Court in the case of the North Carolina Cherokees, and thinks that the same principle should be applied in the case of the Choctaws.

On the 15th of November, 1886, the Choctaw Council passed an act which provides that non-citizens presenting petitions for the rights of a Choctaw, shall be required to have at least one-eighth Choctaw blood, to be proven by competent testimony, and that such persons shall never have been convicted of any felony or high crime, etc.

Agent Owen also refers to the Abigail Rogers case, an alleged half Choctaw woman born in 1760, of almost pure white blood, who, having lived in the States for a century, more or less, now demands the rights of the Choctaw people.

It seems to me that when a member of an Indian tribe separates himself from his people, takes up his residence apart from them, becomes a citizen of another nation, with whose people he is identified, and bears none of the burdens and discharges none of the duties incident to membership in his tribe, and this state of affairs continues through one or more generations, such person and his descendants should be regarded as having abandoned and forfeited their tribal rights of property, to such an extent, at least, that it is competent for the tribe to require satisfactory proof of their descent and to determine whether or not such person or his descendants are entitled to the rights claimed. But it is held that the possession of Choctaw blood entitles a person to membership in the tribe without regard to his separation from the tribe and continued allegiance to another power, and that it is competent for the department to pass upon the sufficiency of the evidence and compel the Choctaws to acknowledge the rights of such persons. It should be shown, I think, beyond a reasonable doubt, by competent evidence, that such person is lineally descended from an ancestor who formerly resided with them and was recognized as one of them.

With these preliminary remarks I proceed to the consideration of the several appeals presented.

No. 1, Caroline M. Hazel.—Claimant has been admitted to citizenship by the Choctaw council since the appeal was taken.

No. 2, Jennie Mathers and A. B. Jennings.—In this case further evidence was taken after the submission of the appeal, and the attorney for the nation conceded that the appellants were of Choctaw blood and should be admitted to citizenship without further question.

I concur with the opinion of agent Owen that they are entitled to citizenship and recommend that the appeal be sustained.

No. 3, A. Frank Ross and William Ross.—The evidence showed satisfactorily that these appellants are nephews of Jephtha N. Moore, (children of his sister,) who has been recognized as a Choctaw by blood. Citizenship has been granted to him and his sons by the supreme court under the law of 1872. It follows that the appellants are of Choctaw blood. The descent from a recognized Choctaw is clearly proven, and I concur with the opinion of agent Owen, sustaining the appeal, and recommend that the claimants and their heirs and children be admitted to citizenship.

No. 4, Harmon Nickle.—This claimant, a citizen of the United States and a white man, married a Choctaw woman in 1847, with whom he lived some four or five years, when she died. Two children born of this marriage died in infancy. The house where Nickle and his Indian wife lived, was in Arkansas, near Fort Smith, and about 100 yards from the Choctaw line. His farm was partly in the Choctaw Nation and partly in Arkansas. In November, 1852, he married a white woman. At that time and for many years after, there was no law which prohibited the marriage of a citizen by marriage with a non-citizen. During the war Nickle refugeeed, but soon after returned. In 1865 and 1866 he occupied a place in the nation which he sold in the summer of 1866, and returned to his old place near Fort Smith. It appears that Nickle was recognized as a Choctaw citizen until 1884, when he was summoned to appear before the Council. Although he has sometimes resided in the nation and sometimes in the States, he appears to have continually kept his interests in the nation, and still owns property there. There is no evidence that he ever changed his domicile or intended to sever his connection with the Choctaw people. It is claimed on behalf of the nation that article 38 of the treaty of 1866 would exclude him, because at the date of the treaty he was not residing within the nation and has not subsequently resided therein with an Indian wife. It is also contended that citizenship by marriage terminates as soon as the marriage relation is dissolved, unless the person whose rights result from such marriage is adopted by act of council. It is further contended that because Nickle swore on March 21, 1884, before the Court of Claims, that he was a citizen of the United States, he could not at that time have been a citizen of the Choctaw Nation.

As indicated in the preliminary part of this report, article 38 of the treaty of 1866 would seem to vest jurisdiction in the Choctaw Nation, as to certain persons therein referred to, *i. e.*, "Every white person who, having married a Choctaw or Chickasaw, resides in said nation." This is a continuing provision; and undoubtedly attaches to such persons, wheresoever he resides in the nation. It is, however, a qualification which applies to jurisdiction and not to rights. Article 26 contains no provision as to residence, but extends the right to select land to all persons who have become citizens by intermarriage.

Nickle was married in 1847, when the marriage act of 1840 was in force. Under that act he became a citizen of the nation and no law of forfeiture (except for parting from his wife without just provocation), was in force at that time, or at the time of his subsequent marriage. I am of the opinion that by his marriage with a Choctaw

woman, Harmon Nickle became a citizen of the Choctaw Nation, and that he has not forfeited or abandoned his membership in the nation.

For the purpose, at least, of presenting claims to the courts of the United States, all adopted white citizens of the Indian nations, who previous to such adoption were citizens of the United States, are undoubtedly qualified to take the same oath as that taken by Nickle before the Court of Claims. I concur with Agent Owen in the opinion that he is entitled to recognition as a citizen of the Choctaw Nation, so far as he is personally concerned. This opinion, however, does not extend to his white wife and children. Not having Choctaw blood, he could not confer citizenship upon a white wife, and the children can not inherit such blood. I have the honor to recommend that the appeal be sustained, the wife and children be permitted to reside with the husband as members of the family.

No. 5, William T. Stephens.—This appellant is a white man who married a Choctaw woman, March 2, 1858, in Sebastian county, Ark., and subsequently moved into the nation. In 1863 he removed to Fort Smith, where he continued to live until 1865, when he returned to his old place in the nation. In 1867 he separated from his wife and they were subsequently divorced, as is alleged, the record not being in evidence. After the divorce was granted he removed to Arkansas, and on the 2d day of October, 1869, married a white woman, a citizen of that State. He remained in Arkansas some three or four years, exercised the rights of citizenship there, was appointed a justice of the peace in 1870, and took the oath of office September 24, 1870. Some four years later he went back to the nation with his family and settled near McCallister, where he has since resided. October 1, 1875, he was licensed to practice law in the courts of the Choctaw Nation. June 5, 1871, he was appointed deputy clerk for Tobucksy county as "a citizen of the county and nation aforesaid."

The attorney for the nation in this case takes the grounds that the rights acquired by the first marriage were forfeited by the second; that the fact of the divorce is not established by competent evidence, and that therefore the appellant's rights to citizenship must be denied for want of proof that he did not abandon his wife "without just provocation." The attorney also alleges that the Choctaw statute on the subject of divorce does not recognize the right of a husband to have a divorce from his wife.

Section 4 of the act of October 30, 1860, enumerates the causes for which divorces may be decreed against the husband. Section 5 of the same act provides that the husband may in all cases obtain a divorce from the wife for "like causes."

Agent Owen reports that Stephens was uniformly recognized as a Choctaw citizen until about 1882. The burden of proof is therefore on the nation. If the attorney had reason to suppose that the divorce was improperly granted, or that the appellant parted from his first wife "without just provocation," he should have sought to establish it by competent evidence. As the appellant has been recognized as a citizen the presumption is that he complied with the laws as to marriage and divorce.

The attorney makes the further point that the appellant voluntarily renounced his Choctaw citizenship when he removed to Arkansas, became a citizen of that State, and held office therein.

Agent Owen is of the opinion that the temporary residence of the petitioner in Arkansas was not such as to deprive him of the rights of residence and adopted citizenship in the Choctaw country, as he soon returned and has continuously lived there since. With this opinion I am unable to concur. "Removal to a place with an intention of remaining there for an indefinite period and as a place of fixed permanent domicile, constitutes domicile, though there be a floating intention to return. The place where a person lives is presumed to be the place of domicile until facts establish the contrary." (See Bouvier on Domicil and authorities there quoted).

In the case (unlike that of Nickle) there is no evidence that the appellant kept up his interests in the nation, or that his absence was temporary and that he intended at sometime to return. On the contrary, after his arrival in Arkansas the *animus manendi* is shown by the fact that he accepted an office under the laws of that State. It was undoubtedly his intention to remain for an indefinite period, possibly with no intention of ever returning to the nation. His recognition as a citizen after his return was not judicial and not based upon official inquiry. I am of the opinion that by his removal from the nation and acquirement of domicile in Arkansas he forfeited his rights as an adopted citizen, and that his appeal should be dismissed.

No. 6, Henry Harrison Justice.—This man married a Choctaw woman from whom he was divorced in 1874. He subsequently married a white woman in Arkansas, where he has permanently established himself and desires to remain. He has abandoned his application, but on the plea that he should be allowed to act for his child by his first wife, Susan Ida Justice, which was conceded by the Choctaw authorities.

Agent Owen finds that Susan Ida Justice is a Choctaw citizen of blood, and that Henry Harrison Justice has forfeited and abandoned his citizenship in that nation, in which findings I concur.

No. 7, Elizabeth and Daniel Grant.—Agent Owen states that "Elizabeth Grant married Daniel Grant a white man, having two children of Choctaw blood, and the decision of the Choctaw council was that the claimant was the mother of two Choctaw children living with her, and her claim was allowed, while no action seems to be taken relative to him, yet they both through their attorney, filed an appeal without evidence, and on October 8, 1886, made no further evidence, although I requested it of their attorney, G. W. Thompson." The agent affirms the action of the Choctaw council, in so far as it is a decision, for the want of evidence.

I think the appeal should be dismissed on account of the failure of the parties to prosecute the same. So far as understood, the decision of the council admits the claim of Mrs. Grant; if so her husband should be allowed to remain in the nation during good behavior.

No. 8, Nancy C. Berryman.—In this case an appeal was taken on behalf of claimant, but no evidence was filed. It is recommended that the appeal be dismissed on account of failure to prosecute.

No. 9, Franklin Strube, wife, and four children.—This claim is based upon the fact that claimant's wife is the daughter of a white woman, whose first husband had formerly been married to a Choctaw woman, as follows: James Norris, a white man married Martha Bell a Choctaw woman, in 1848. After her death he married Catharine Hicks, a white woman. In 1857 Morris died. It is not claimed that Morris was the father of Emeline Strube and from the evidence it would appear that the widow Morris subsequently married a white man named Turnbrough, by whom she became the mother of Emeline. There is no Choctaw blood in any of the family. I recommend that the appeal be dismissed.

No. 10, William McH. Morris, wife, and five children.—This claimant is the son of James Morris and his second wife, Catharine Hicks, mentioned in the preceding case. The claim is based upon descent from an adopted Choctaw, there being no Choctaw blood in the family.

In accordance with the views heretofore expressed, I concur with the opinion of Agent Owen, that the family is not entitled to citizenship, and accordingly recommend that the appeal be dismissed.

No. 11, James Monroe Bynum.—This claimant married a white woman in Alabama in 1852, a Creek woman in the Choctaw Nation in 1875, a Choctaw woman in the Creek Nation in 1877, and subsequently a white woman in the Choctaw Nation.

It is doubtful if Bynum was ever a citizen of the Choctaw Nation by marriage, his marriage to a Choctaw woman having taken place outside the nation and not under its laws. If he acquired any rights by such marriage they were forfeited by his subsequent marriage to a non-citizen after the passage of the act of November 9, 1875.

I concur in the opinion of Agent Owen that he is not entitled to Choctaw citizenship and recommend that his appeal be dismissed.

No. 12, James M. Bragg.—This claimant married a citizen of the Choctaw Nation in April, 1875, in accordance with Choctaw law. Subsequently, it is alleged, he obtained a divorce on the ground of her abandonment, and about 1878 married a white woman in Sebastian County, Ark.

The only question involved in this case is the validity of the act of 1875, by which the Choctaws claim that Bragg forfeited his rights to citizenship.

In accordance with the views before expressed, I regard this act as valid, and concur in the opinion of Agent Owen that Bragg has forfeited his rights. I therefore recommend that the appeal be dismissed.

No. 13, Elizabeth Casey and John Casey.—The latter is a white man and claims rights by virtue of his marriage to Elizabeth Fisher, who claims to be the daughter of Anna Hersly, the daughter of Nancy Terrell, who was a half-blood Choctaw, and lived in the old Choctaw Nation east of the Mississippi. She married Casey in the State of Texas in 1850. They first went to the Choctaw Nation in 1853. Their petition for citizenship was presented to the Choctaw council in 1880 and was not granted. Their descent is supported by the affidavits of George Washington and Andrew McGee, the former an aged Choctaw and the latter an aged negro, formerly a slave—the latter now dead and the former supposed to be. Their character for truth and veracity is impeached, and the character of their evidence is such that but little credit can be given to it. Another witness testifies that he knew Jim Terrell (alleged to be a brother of Nancy), but never heard of his having a sister. Casey testifies that the first knowledge he had of his relationship with Terrell was derived from McGee and Washington, and that he proceeded to take their depositions, but that neither he nor his wife went to see Terrell about the matter.

I do not think the descent of Mrs. Casey from a Choctaw ancestor, recognized by the Choctaw people as one of their number, has been established by the evidence presented beyond a reasonable doubt, and therefore am of the opinion that the decision of the Choctaw council should be allowed to stand and the appeal dismissed.

No. 14, Martha Carroll for herself and husband, William A. Carroll and nine chil-

dren.—Mrs. Carroll claims that she is the daughter of Isaac Crowder, who was the son of Harris Crowder (a white man), and his wife, Margaret Durant, a Choctaw woman by blood.

Elizabeth Airington testifies that Eli Crowder was the father of Harris Crowder by Margaret Durant, a Choctaw woman, and that Harris Crowder was the father of Isaac Crowder.

James Cook testifies that Mrs. Carroll is the daughter of Isaac Crowder.

Rev. Allen Wright testifies that Eli Crowder married Margaret Durant, their first issue being Harris Crowder. He also states that it is said that Harris Crowder married a white woman and that their son is the father of Mrs. Carroll, but that by his own personal knowledge he does not know that the claimant is of Choctaw blood, but that the family to which she belongs were Choctaw Indians and resided in the old Choctaw country.

D. D. Durant testifies that Mrs. Carroll is the daughter of Isaac Crowder, a quarter-blood Choctaw who was the son of Harris Crowder, a half-breed Choctaw, who was the son of Eli Crowder, a white man, and Margaret Durant, a full-blood Choctaw woman.

Agent Owen regards Durant's evidence as unreliable, because he does not have proper means of knowledge, since he left the alleged grandfather of the claimant in Mississippi over forty years before, when he was a small boy, and does not indicate that he knew anything of the alleged father of the claimant. The witness states that his means of knowledge are derived from his family connection, his father being about fourth cousin to Margaret Durant.

A. R. Durant, a justice of the Choctaw supreme court, testifies that he never knew Isaac Crowder or Eli Crowder, but did know the children of Eli Crowder, whom he enumerates. In his principal examination he did not give the name of Harris Crowder as one of the children, but subsequently corrected his evidence, stating that instead of Jefferson he should have said Harris Crowder. He stated that two of the sons of Eli Crowder are living in the Choctaw Nation, the other children being dead; some of their descendants being residents of the nation; that he never heard of Isaac Crowder; that he left Mississippi in 1845, where he knew Harris, but has never seen him since; and that Harris's son Jasper resides in Sans Bois County.

Bill Jones testifies that he was raised with the Crowders, and knew Harris and the other children named Durant; that Harris had two children, Martha and Jasper, and one dead; that Martha married a Folsom and is living on the Canadian; that Jasper is living in San Bois County. On cross-examination he says: "I know of no Crowder named Isaac; he must have died before I was born." He gives the family history and states that he and the Crowders came west together. "All the Crowders came west with me."

Mrs. Carroll writes to the agent that Durant had claimed that he was her cousin, and if she would give him \$25 he would get her a right in the nation; that she paid him the \$25, and that he subsequently turned against her.

The evidence appears to be conclusive that Mrs. Carroll is the daughter of Isaac Crowder, and that Harris Crowder was the son of Margaret Durant, a Choctaw. The weak link in the chain is that connecting Isaac Crowder with Harris Crowder. It should be noticed that Mrs. Carroll makes Margaret Durant the wife of Harris Crowder, while all the witnesses make her the mother of Harris and wife of Eli Crowder. It seems strange that the evidence of the near relations of Mrs. Carroll, whom two witnesses positively assert to be living in the nation, was not obtained or sought so far as shown by the papers.

If it be the truth that Isaac was the son of Harris Crowder, it does not appear that either of them ever resided west of the Mississippi.

In my opinion the appellant's descent from a Choctaw ancestor is not established beyond a reasonable doubt, and I recommend that the appeal be dismissed.

No. 15, Wilson M. King.—The evidence shows that this claimant is of Indian descent, and probably that his mother was part Choctaw, but it does not establish his descent from a recognized Choctaw ancestor.

I concur in the opinion of Agent Owen that the appellant is not entitled to Choctaw citizenship, and recommend that the appeal be dismissed.

No. 16, S. A. Donald, wife and six children.—The appellant claims citizenship on the ground that his wife is of Choctaw descent. He testifies that in the year 1848, in the State of Alabama, he married Elizabeth Jones, daughter of Sam Jones and granddaughter of Billy Jones; that Sam Jones was a French creole who had a Choctaw wife; that he (Donald) came to the Choctaw Nation in 1865, and that he proved his rights before the supreme court, and afterwards exercised all the privileges of the Choctaw citizen. In answer to certain interrogatories filed in October, 1884, Donald states that Sam Jones's wife was the daughter of Billy; that Sam Jones was the head of the family; that Billy Jones was the son of old Sam, and that Sam Jones married a daughter of Bill Jones. He also states that he is sixty-two years old, and his wife about forty, which would make her about four years old when they were married (in 1848).

In an *ex parte* affidavit made in 1870, Robert Hancock states that Elizabeth Donald is a lineal descendant of the Choctaw race; that his grandmother was the sister of John Jones, a native Choctaw.

In an *ex parte* affidavit made in 1883 Ward Folsom states that he was well acquainted with Samuel Jones, a white man who married Nancy Stearns, a Choctaw; that he became intimately acquainted with the boys born of this marriage, Samuel and William Jones; that he never knew Mrs. Donald's father and mother, but knew her great-grandfather William Jones, a half-breed Choctaw, the son of Samuel Jones, sr., the white man who married Nancy Stearns, and the great-great-grandfather of Mrs. Donald; and that he believes she is entitled to all the rights of Choctaw citizenship. He makes no mention of her grandfather. This evidence fails to show an unbroken chain of descent and badly mixes up the Joneses. According to Donald's two statements, Sam Jones, a French creole and the son of Billy Jones, was his wife's father, while her mother was a Choctaw woman and the daughter of Billy Jones, so there must have been two Bill Joneses, or Sam married his own sister. According to the witness Folsom, old Sam Jones was the great-great-grandfather of Mrs. Donald and this original Sam was a white man who married a Choctaw; Billy Jones was her great-grandfather and Sam Jones her great-uncle. Folsom never knew her father or mother; possibly he was Sam Jones the third or fourth, as the grandfather is also missing.

Robert Hancock testifies that Mrs. Donald's grandmother was John Jones's sister, but who John Jones was and what relation to Sam and Bill, deponent saith not.

One Peter Folsom testifies that one Katie Jones was a sister of Jessie Jones, who was a daughter of Sam Jones, but of which Sam Jones will probably never be known, as Folsom is dead. He also states that there were two brothers living in the nation named John and Sam Jones, and adds the startling fact that John Jones was the mother of Bob Jones. He fails to connect these Joneses with Mrs. Donald.

A. G. Morris, a witness for the nation, testifies that the name of Mrs. Donald was Elizabeth Samuel, and that Donald married her in Alabama in 1847 or 1848. This evidence is about as unsatisfactory as that for the appellant. He does not give his means of knowledge nor does he identify Elizabeth Samuel as the present wife of the claimant.

There is nothing in the record to show that Donald was admitted to citizenship by decision of the supreme court, although it does appear that he has exercised the rights of citizenship.

I concur in the opinion of Agent Owen that the appellant has not established a right to Choctaw citizenship and recommend that the appeal be dismissed.

No. 17, N. M. Moore, for himself and wife and various descendants, numbering some twenty-three persons.—Moore claims that his father, Nituckache Moore, was a Choctaw Indian by blood; does not know it of his own knowledge, but his mother told him so.

Dan Culbert, in July, 1880, made affidavit that William McGagle Moore is of Indian descent, of the Choctaw tribe, being the son of Nituckache Moore of the old nation. Robert Hancock made a similar affidavit about the same time.

Agent Owen states that when called upon by the nation in 1884, to submit his evidence, he presented none, nor did he present any to the Agent in 1886, but submitted the case upon the record by his attorney.

There is virtually no evidence in this case and I recommend that the appeal be dismissed.

No 18, James Biddie.—There does not appear to be any evidence in support of the appeal. The claimant petitioned the Choctaw council, October 10, 1884, in behalf of himself, wife, and three children, claiming Choctaw descent through the line of the Jones family. The only witness produced at this time was Meashonabe, who states that Alexander J. Biddie lived in the old nation and that James Jones Biddie was his son.

In answer to interrogatories he states that he does not know whether the Biddies ever came to the Choctaw Nation west; that James Jones Biddie was the son of Alexander Jones; that James Jones Biddie married Polly; and that he does not know whether Biddie had any children or not, but knows that the claimant Biddie is the son of James Jones Biddie, because he (the claimant) told him so.

In 1879, Jones Biddie, supposed to be the father of James Biddie, made affidavit before an United States Commissioner in which he alleged that he was a Choctaw by descent, having been born of John Biddie and Sary, they being members of the Choctaw tribe; and that his children were Rachel, Sary, Ann, Elizabeth and James F., by his first wife, Mary J. Sanders and Josephine, John and Eugenia by his second wife, Elizabeth Louisa Kensa. At the same time George Washington, whom Agent Owen characterizes as a professional witness, made affidavit to the effect that he was good and well acquainted with James Jones Biddie in the old nation, long before the Choctaws removed; that he knows of his own knowledge that James Biddie was then

and there recognized as a Choctaw Indian; and that he was not much acquainted with the parents of said James Jones Biddie, but was well acquainted with one Alexander Jones who was said to be the grandfather of said James Jones Biddie.

This evidence was presented to the Choctaw council in 1880, accompanied by the petition of James Jones Biddie, in which he alleges that his mother was a daughter of one Frederick Jones, a native Choctaw; that he lived in the Choctaw nation until he was eleven or twelve years of age, when he went to the Chickasaw nation, where he remained with his brother until he was about seventeen, then went to Alabama, where he remained until he moved to the Choctaw nation (about 1873).

From a memorandum on this petition it appears that his application was rejected by the committee on citizenship.

I do not think that the appellant has established his descent from a recognized Choctaw ancestor, beyond reasonable doubt, and concur in the opinion of Agent Owen that the appeal should be dismissed.

No. 19, William Langford, for himself, wife, and one child.—The appellant claims Choctaw descent through the line of the Jones family, and rests his case on the evidence in the Biddie case.

There is nothing in the record of either case that shows his connection with the Biddie family.

I recommend that the appeal be dismissed.

No. 20, James Langford, for himself, wife, and one child, all of whom claim to be of Choctaw descent through the Jones family.—The case rests upon the evidence in the Biddie case. I recommend that the appeal be dismissed.

No. 21, Elizabeth Deaton, for herself, husband, and eight children—Same as Nos. 19 and 20.

No. 22, Mary Catherine Barker, for herself, her deceased husband, Scott Cheeley, and their child, and her present husband.—Same as Nos. 19, 20, and 21.

No. 23, Joshua and Mary Goddard.—This case was appealed, but no evidence was submitted. I recommend that the appeal be dismissed.

No. 24, John C. Glenn, *et al.*—This appeal appears to include the cases of John Barnes, John B. Tucker, Joseph Tucker, Joseph Barnes, Edward Tucker, George Tucker, Lee Edmonson, Jackson Glenn, Casey Glenn, Robert Tucker, and Kizh Herres, Lindsey Williams, and their families.

John C. Glenn claims rights for himself, wife, and son, and for their daughter and her husband and two children, as the grandson of Abigail Rogers, a half-blood Choctaw, who, as is alleged, married John Glenn, a white man. The other parties are understood to be grandchildren of Abigail Rogers and John Glenn.

By an argument between counsel the cases of the claimants through descent from Abigail Rogers were considered by the Choctaw council as one case. From the evidence it appears that Abigail Rogers was of Indian blood, undoubtedly part Choctaw, with possibly an admixture of Cherokee blood; that she married John Glenn, a white man, and is the ancestor of the several claimants.

None of the witnesses have any knowledge of her father and mother, except Mary Barnes, who testifies that the old folks said the former was part Cherokee. She also states Abigail's father lived with Abigail's mother until Abigail was born, when he took the latter to the Cherokee Nation, where she grew up, married John Glenn, who took her to Mississippi. After her husband's death and probably soon after the Choctaw emigration, she with others of the family, started to join the nation, as it is alleged, but died in Arkansas about 1840. The descendants finally reached the Choctaw Nation some thirty years later (in 1870). None of the family appear to have drawn annuities as Choctaws, although it is claimed in certain affidavits that they did. Such testimony, however, is worthless, and several of the claimants admit that the Glenn family got no money as Choctaws in any way. The claimants do not assert that Abigail Rogers was ever recognized as a member of the Choctaw tribe, entitled to all the rights and benefits accruing from such membership, although certain of the witnesses set up this claim on their behalf.

I do not think that the evidence shows that Abigail Rogers was a recognized member of the Choctaw tribe, although it does show, as before stated, that she was of Choctaw descent. Her descendants have intermarried among themselves or with white people, but not with members of the Choctaw tribe. They have claimed and exercised the rights of United States citizens in various States. While the mere possession of Choctaw blood is a reason which might and probably should influence the Choctaw Nation to admit them to citizenship, I do not think it sufficient to justify the Department in compelling the nation to take such action.

I recommend that the action of Agent Owen affirming the decision of the Choctaw council be sustained, and that the appeal be dismissed.

From Agent Owen's report it appears that Joseph Brown presented his case to the Choctaw council, but no appeal is noted.

The instruction of March 22, 1884, contained the following clauses:

"All persons finally adjudged to be intruders will be allowed a reasonable time in which to dispose of their improvements and property before being removed.

"Subject to this qualification, all parties properly notified failing to appear at the session of the council for which they are summoned, should at the expiration of said session be promptly removed; and any person adjudged to be an intruder by the Choctaw authorities, failing to appeal within the time prescribed, should also be promptly removed."

In accordance with these instructions I have the honor to recommend that Agent Owen be directed to notify all persons of the second class and all those whose appeals are decided adversely by you that they will be given a reasonable time which should be fixed by the agent and governed by the circumstances in each case, in which to dispose of such of their improvements and property as they may not desire to remove, or which can not legally be removed, and at the expiration of that time they must permanently remove from the Indian Territory. All to be given to understand that they must use all diligence and exertion to dispose of their improvements within the time fixed, and in case any one is unable to do so from any cause not his own fault the facts to be presented to this office for consideration.

I transmit the papers and request their return.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

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